



**STATE OF ALABAMA**  
ALABAMA PUBLIC SERVICE COMMISSION  
P.O. BOX 304260  
MONTGOMERY, ALABAMA 36130-4260

JIM SULLIVAN, PRESIDENT  
JAN COOK, ASSOCIATE COMMISSIONER  
GEORGE C. WALLACE, JR., ASSOCIATE COMMISSIONER

WALTER L. THOMAS, JR.  
SECRETARY

**IN RE: PROPOSED REVISIONS TO THE  
PRICE REGULATION AND LOCAL  
COMPETITION PLAN.**

**DOCKET 28590**

**ORDER SEEKING COMMENTS  
ON THE REVISED ATRP**

**BY THE COMMISSION:**

As a result of the numerous workshops conducted in this cause, the Commission staff has recommended revisions to the Alabama Telecommunications Regulation Plan ("ATRP") previously adopted by the Commission pursuant to an Order entered in this cause on July 25, 2004. The revised ATRP is attached hereto as appendix A.

The Commission hereby seeks comments regarding the revised ATRP and will consider such comments from interested parties if filed on or before November 23, 2004. Reply comments are also encouraged and will be considered if filed on or before December 7, 2004.

In addition to the comments sought herein, the Commission has also determined that further workshops concerning local calling plans and intercarrier compensation issues should be conducted under the supervision of the Commission staff. Such further workshops are hereby scheduled for Friday, November 12, 2004, at 9:00 a.m. in the

conference room of the Alabama-Mississippi Telecommunications Association in Montgomery, Alabama.<sup>1</sup>


IT IS SO ORDERED BY THIS COMMISSION.

IT IS FURTHER ORDERED BY THIS COMMISSION, That jurisdiction in this cause is hereby retained for the issuance of any further order or orders as may appear to be just and reasonable in the premises.


IT IS FURTHER ORDERED, That this Order shall be effective as of the date hereof.

DONE at Montgomery, Alabama, this 5<sup>th</sup> day of November, 2004.


ALABAMA PUBLIC SERVICE COMMISSION

  
Jim Sullivan, President

  
Jan Cook, Commissioner

  
George C. Wallace, Jr., Commissioner

ATTEST: A True Copy

  
Walter L. Thomas, Jr., Secretary

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<sup>1</sup> The parking deck code for said workshop is 7787\*.

**APPENDIX A**  
**STAFF PROPOSED**  
**ALABAMA TELECOMMUNICATIONS REGULATION PLAN**

The Staff Proposed Alabama Telecommunications Regulation Plan (TELCOM REG PLAN) is applicable to those telecommunications service providers, defined herein, regulated by the Alabama Public Service Commission. Recognizing that there are distinct regulatory requirements pertinent to each type service provider, the Commission Staff (hereafter referred to as “the staff”) has separated the Regulation Plan into parts applicable to each. Part I applies to BellSouth Telecommunications Company, Parts II and III apply to other incumbent local exchange carriers (ILECs), Part IV applies to competitive local exchange carriers (CLECs) and Part V applies to toll carriers and toll resellers.

Each Part of the TELCOM REG PLAN stands on its own and the Commission may approve all or selected parts of the plan at its discretion.

TABLE OF CONTENTS

PART I	BellSouth Price Flexibility Plan	pages 1 through 21
PART II	ILEC Price Cap Plan	pages 22 through 33
PART III	ILEC Price Flexibility Plan	pages 34 through 50
PART IV	CLEC Price Flexibility Plan	pages 51 through 58
PART V	Toll Service Provider Streamlined Regulation Plan	pages 59 through 62

**PART I**

**BELLSOUTH PRICE FLEXIBILITY PLAN**

1. **APPLICABILITY OF THE BELLSOUTH PRICE FLEXIBILITY PLAN**

The Staff Proposed BellSouth Price Flexibility Plan (“the Bell Plan” or the “Plan”) for BellSouth Telecommunications (“BellSouth”) will apply to all telecommunications services offered by BellSouth and regulated by the Alabama Public Service Commission (hereinafter referred to as “the Commission”).

2. **DEFINITIONS**

- A. “Bundled Services” are a combination of services offered as a package, whether at a single price or with the availability of the price for one contingent on the purchase of the other(s). A Bundled Service may be comprised of any telecommunications service or non-telecommunication service offered by the ILEC in any combination with

telecommunication or non-telecommunication service(s) offered by an ILEC's affiliate and/or with a non-affiliated third party provider.

- B. "Contract Service Arrangement" ("CSA") is an arrangement wherein BellSouth provides services pursuant to a contract between BellSouth and customers in Tier I where competitive alternatives are known to exist and in Tier II and Tier III in response to a competitive alternative or other unique circumstances<sup>1</sup>. Such arrangements include situations in which the services are not otherwise available through BellSouth's tariffs, as well as situations in which the services are available through BellSouth's tariffs, but BellSouth offers those services at prices other than those specified in BellSouth's tariffs.
- C. "Customer Value Program" (CVP) is the offering of a telecommunications service, combination of telecommunications services, or a telecommunications service or combination of telecommunications services in conjunction with a non-regulated service and/or non-telecommunications service by ILECs to eligible customers in the ILEC's service area. Customers subscribing to such programs will receive ongoing benefits for a duration that may exceed ninety (90) calendar days. Essentially, CVPs are long-term promotions (greater than 90 days in duration).
- D. "Effective Date" is the proposed date on which a new tariff or tariff revision is considered effective. The Effective Date is based on a specified number of work days following, but excluding, the File Date.
- E. "Eligibility Criteria" are the factors used to determine the customers and/or potential customers who would qualify for a Promotion, Customer Value Program, Marketing/Technical Trial, or Bundled Service: i.e., current services or services a customer must subscribe to, monthly spend, service or usage volume, term commitment, geographic location, such as wire center, and/or any other identifiable characteristic.
- F. "File Date" is the official date recorded by the office of the Director of the Commission's Administrative Division (Commission Secretary) for any proposed tariff or tariff revision submitted by a telecommunications provider and accepted by the Commission. The File Date is considered administrative in nature.
- G. "Interconnection Services" include Switched Access Services, Special Access Services, and Local Access Services and are defined as follows:

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<sup>1</sup> The term "competitive alternative" is defined as products and/or services offered by a telecommunications carrier who has the capability of providing the services to the customer at the time and place of the customer's choosing and whose availability and pricing are such that BellSouth's customers are reasonably expected to switch to a competitive provider. The Commission shall determine, on a case-by-case basis, the reasonableness of claims that competitive alternatives exist. The term "other unique circumstances" is defined as a unique customer telecommunications service requirement wherein a competitive alternative does not necessarily exist but the arrangement of products and/or services is generally unavailable in the approved tariff or wherein the Commission deems it to be in the public interest to offer the products and services at prices below those authorized in the approved tariff on a case-by-case basis.

- (1) "Switched Access Services" allow toll providers to interconnect to BellSouth's network in order to originate or terminate switched toll calls.
  - (2) "Special Access Services" are services providing an analog or digital transmission path that is not switched by a BellSouth end office to directly connect an interexchange carrier's ("IXC's") terminal location and an end user's premises, two IXC terminal locations, an IXC terminal location and a hub, or two end user premises.
  - (3) "Local Access Services" allow competitive local exchange carriers ("CLECs") or other providers of local exchange services to complete local calls via BellSouth's network pursuant to the Telecommunications Act of 1996 ("the Act") through the interconnection of a CLEC's or other provider's network to BellSouth's network, through the resale by a CLEC of BellSouth's regulated retail services, or through the purchase by the CLEC of unbundled network elements ("UNEs") offered by BellSouth.
- H. Intra/Inter-modal<sup>2</sup> is a categorization that, for purposes of this Plan, describes competition for wire line subscribers in relation to the delivery means used by ILECs for provisioning local exchange service. Intra-modal competition describes basic local telephone service provided by regulated telecommunication carriers, over cable or wire, to subscribers within the ILEC's exchange boundary to include telecommunications over CATV and power lines. Wire line competition exists when local telephone services are generally available to subscribers within the ILEC's exchange boundary at a level of service and at prices that make them a reasonable and viable alternative to the ILEC's services. Business private line arrangements alone are not a sufficient indicator of wire line competition. Inter-modal competition is local telephone service provided primarily by means other than cable or wire, such as wireless telecommunications service.
- I. "Marketing/Technical Trial" is the offering of a telecommunications service, combination of telecommunications services, or a telecommunications service or combination of telecommunications services in conjunction with a non-regulated service and/or non-telecommunications service by BellSouth to eligible customers on a trial basis in BellSouth's service area for technical and/or marketing purposes. Such trials shall be for the purpose of evaluating, in an operating environment, the performance and pricing of the specific service or services in conjunction with other marketing and environmental factors that can influence customer demand.

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<sup>2</sup> The Commission's definition of intra/inter-modal competition, for purposes of this plan, may differ from the FCC definition. The FCC defines *inter-modal alternatives* as "facilities or technologies other than those found in traditional telephone networks. These include, for example, traditional or new cable plant, wireless technologies (satellite, mobile, or fixed), power line (electric grid) technologies, or other technologies not rooted in telephone networks." The Commission's definition recognizes that wire line, local exchange service, available from an alternative to the ILEC, is competition regardless of whether the service is provided by delivery means traditionally utilized by ILECs.

- J. "Metropolitan Statistical Area" ("MSA") is an area, as defined by the Office of Management and Budget, with a large population nucleus that together with adjacent communities, has a high degree of social and economic integration.
- K. "New Service" is a regulated function, feature, capability, or any combination thereof, which is not offered by BellSouth as of the effective date of this Plan.
- L. "Non-discretionary Retail Telecommunication Services" are those services for which the Commission limits the degree of regulatory discretion otherwise provided in the Plan for Retail Telecommunications Services.
- M. "Promotion" is the offering of a telecommunications service, combination of telecommunications services, or a telecommunications service or combination of telecommunications services in conjunction with a non-regulated service and/or non-telecommunications service by ILECs to eligible customers in the ILEC's service area. Customers subscribing to promotional offerings receive a one-time or short-term benefit that shall not exceed ninety (90) calendar days.
- N. "Retail Telecommunications Services" are the telecommunications services, other than Interconnection Services, which are offered by BellSouth and regulated by the Commission.
- O. "Telecommunications Service" is the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available to the public, regardless of the facilities used.
- P. The term "Tier" refers to a category of wire centers demonstrating similar levels of competitive activity and may include only a subcategory of service associated with a wire center (business or residential).
- Q. Total Service Long Run Incremental Cost ("TSLRIC") is the incremental cost that would be incurred for the entire volume of a service. TSLRIC methodology considers all volume sensitive costs (i.e., costs that change with a change in unit demand) and volume insensitive costs (i.e., costs that do not change with a change in unit demand, but are required by the service) directly caused by and associated with that service.
- R. "Work Day" is defined as Monday through Friday and excludes weekends and officially recognized State holidays.

### 3. COMPETITIVE CATEGORIES (TIERS)

For purposes of the Plan, BellSouth's service territory shall first be divided into geographical affiliation based on Metropolitan Statistical Areas ("MSAs"). However, the MSAs shall only be used as a guideline for assigning wire centers to a competitive Tier. Competitive activity and not geographical affiliation ultimately determines wire center assignment to one of three

(3) Tiers. Each Tier will contain wire centers demonstrating similar competitive activity. Because competition for business telecommunication services can develop absent a similar level of competitive activity for residence service, a wire center may be assigned to one competitive Tier for business service and another for residential service. BellSouth shall request assignment of wire centers and provide justification for the proposed assignment. The Commission, however, will determine the initial classification of wire centers to each of the competitive Tiers. Additionally, on each anniversary of the Plan, the Commission may review and redefine the criteria used to assign wire centers to each of the competitive Tiers.

Initially, the following MSAs shall be designated as Tier I MSAs: Birmingham-Hoover, Mobile, Montgomery, and Huntsville. The remaining MSAs, Anniston, Auburn/Opelika, Columbus (Georgia), Decatur, Florence, Gadsden, Pensacola (Florida), and Tuscaloosa, shall be designated as Tier II MSAs. The Non-MSA areas of the State shall be grouped together for regulatory purposes into Tier III<sup>3</sup>. Additional criteria for defining levels of competitive activity will be identified by the Commission and the Company and wire centers shall be assigned to Tier I, Tier II, or Tier III before the implementation of the Plan.

#### 4. CLASSIFICATION AND RECLASSIFICATION OF WIRE CENTERS

Factors upon which BellSouth may request classification of wire centers into the competitive Tiers may include, but are not limited to, collocation arrangements, residential and/or business competitive market share, alternative sources of switching, alternative sources of transport, etc. Further, pricing and availability of competitive residential alternatives will be used to determine the classification of residential service in each wire center to a competitive category. BellSouth will submit supporting documentation justifying the requested classification.

On each anniversary of the Plan, BellSouth may file requests to reclassify Tier I, Tier II, or Tier III wire centers. BellSouth shall file supporting documentation justifying the reclassification of wire centers to a different competitive Tier. Factors upon which BellSouth may base its reclassification request are referenced in the preceding paragraph and must include a separate analysis for residential service.

#### 5. SERVICE CATEGORIES

Each telecommunications service offered by BellSouth and regulated by the Commission shall be assigned to one of two (2) categories: (1) Retail; and (2) Interconnection Services. (See Attachment B for the classification of services by category as of the effective date of this Plan.)

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<sup>3</sup> All non-MSA wire centers will be assigned to Tier II upon demonstration by the ILEC to the Commission's satisfaction that fifty (50) percent of more of the ILEC's non-MSA wire centers are experiencing intra-modal, UNE or facilities-based competition (resale competition excluded) as evidenced by wire line telephone service being provided to subscribers within the non-MSA wire center boundary.

## 6. TARIFFS

BellSouth shall file tariffs for all telecommunications services offered by BellSouth and regulated by the Commission, except as specifically exempted herein. Tariffs shall be filed for any proposed change to terms, conditions, and/or prices.

Tariffs shall become effective in accordance with the provisions of subsections (A) – (F) below. The Commission retains the authority to investigate a tariff on its own motion, by intervention of another party, or as the result of a complaint filed pursuant to §37-1-83 of the Code. Any such motion, intervention or complaint shall specifically enumerate the rules and regulations of the Plan and/or Title 37 of the Code of Alabama, 1975 (the “Code”) that have been violated.

If the Commission initiates an investigation of a tariff on its own motion, the tariff in question may be suspended for up to ninety (90) days. If the Commission initiates an investigation based on the intervention of another party or the filing of a complaint pursuant to §37-1-83 of the Code, the tariff shall remain in effect pending completion of the investigation and hearing. In lieu of the suspension of proposed tariffs as the result of intervention by another party or the filing of a complaint by another party pursuant to §37-1-83 of the Code, the following procedures will be in effect.

If the Commission initiates an investigation of a tariff based on the intervention or complaint of another party within sixty (60) days of the effective date of said tariff and orders a decrease in a price or prices contained therein, BellSouth shall be required to credit the difference between the effective price or prices and the Commission-ordered price or prices to affected customers during that period of time the tariff was effective, but not to exceed one-hundred, fifty (150) days.

- A. Tariffs proposing changes to terms or conditions for telecommunications services offered by BellSouth and regulated by the Commission shall be filed with an Effective Date at least ten (10) work days following the File Date.
- B. Tariffs proposing price reductions for telecommunications services offered by BellSouth and regulated by the Commission shall be filed with an Effective Date at least five (5) work days following the File Date.
- C. Tariffs proposing price increases for Retail Telecommunications Services<sup>4</sup>, Switched Access Services, or Special Access Services in Tier I shall be filed with an Effective Date at least five (5) work days following the File Date. Price increases for Retail Telecommunications Services, Switched Access Services, or Special Access Services in Tier II and Tier III shall be filed with an Effective Date at least ten (10) work days following the File Date.

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<sup>4</sup> Except those Retail Telecommunication Services listed as “Non-discretionary” in Attachment B.



- D. Tariffs proposing price increases for Non-discretionary Retail Telecommunication Services, as annotated on Attachment B, shall be filed with an Effective date at least thirty (30) work days following the File Date.
- E. Tariffs for New Services shall be filed with an Effective Date at least five (5) work days following the File Date.
- F. Tariffs that grandfather and/or eliminate telecommunications services shall be filed with an Effective Date at least twenty-five (25) work days following the File Date. For tariffs that eliminate telecommunications services, the tariff shall provide customers no less than one hundred, eighty (180) calendar days following the Effective Date during which affected customers will be given the opportunity to subscribe to alternative services before a customer's current services are eliminated.

## 7. PRICING RULES

### A. Pricing Rules – General

- (1) The price for any new or existing service shall equal or exceed its TSLRIC unless:
  - (1) specifically exempted by the Commission based on public interest concerns; or (2) BellSouth in good faith, and upon Commission approval, prices the service in order to meet the equally low price of a competitor.
- (2) In the event that BellSouth prices a service below TSLRIC to meet the equally low price of a competitor, any intrastate universal service fund which may exist cannot be utilized to offset the resulting revenue shortfall.
- (3) No price reductions that will result in prices below TSLRIC will be allowed unless approved by the Commission. No price reductions will be allowed for any existing services that are priced below TSLRIC on the effective date of this Plan, unless approved by the Commission.
- (4) When no TSLRIC study is readily available, the Commission may, at its discretion, consider a surrogate for the TSLRIC cost study as the basis for analyzing the price floor requirement.

### B. Pricing Rules – Retail Services

#### (1) FLAT-RATE RESIDENTIAL AND BUSINESS SERVICE

- a. Following Commission approval of the Plan, prices for 1FR and 1FB service in Rate Groups 1-5 may be increased to the prices for Rate Group 6, creating a single BellSouth statewide 1FR price of \$16.30<sup>5</sup> and a 1FB price of \$36.23.

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<sup>5</sup> Prior to the implementation of this increase, the Company shall provide unlimited toll-free local calling to the community(ties) of interest agreed upon by the Company and the Commission for all of BellSouth's wire centers.

Thereafter, 1FB prices in Tier I and Tier II shall be adjusted at the discretion of BellSouth subject to the limitations specified for Other Retail Telecommunication Services in Part 7B(4). For Tier III wire centers, 1FB prices shall be capped for two years.

- b. Following the second and fourth anniversaries of this Plan, prices for 1FR service (including 1FB for Tier III) may, at the discretion of the Company<sup>6</sup>, be increased by five percent (5%). However, the tariff price for 1FR service shall not exceed eighteen dollars (\$18) per month and the tariff price for 1FB service in Tier III shall not exceed \$39.95 per month unless, following notice and hearing, specifically approved by the Commission. Price increases for 1FR service (including 1FB for Tier III) will only be authorized in those wire centers compliant with the Commission's service quality objectives set forth in this Plan (as of the applicable anniversary date referenced above). Otherwise, prices for 1FR service (including 1FB for Tier III) in those wire centers that fail to meet the service quality objectives will remain unchanged until found in compliance.
- c. Within 90 days following the fourth anniversary of the plan, the Commission will make a further assessment of 1FR and 1FB prices and may schedule future adjustments as deemed necessary.

## (2) NON-DISCRETIONARY RETAIL SERVICES

Prices for Non-discretionary Retail Telecommunication Services, annotated on Attachment B, shall not be increased at the discretion of BellSouth. The Company may request increases for prices of these services, on a case-by-case basis, in accordance with the filing requirements identified in part 6D of this Plan. In evaluating such requested price increases, the Commission will take into account prices for the same or equivalent services in other states within BellSouth's operating area.

## (3) VERTICAL SERVICES

Upon approval of this Plan for BellSouth, the price for Residential Call Waiting, Caller I.D. and Caller I.D. Deluxe may be adjusted to mirror existing prices in any one of the states within BellSouth's operating area. Thereafter, prices for Residential Call Waiting, Caller I.D. and Caller I.D. Deluxe will be capped for two years. Pricing Rules for Other Retail Telecommunication Services, Part 7B(4), shall apply for all other Business and Residential Vertical Services. Beginning with the second anniversary of the Plan, the pricing rules in 7B(4) shall thereafter apply to Residential Call Waiting, Caller I.D. and Caller I.D. Deluxe.

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Included with the implementation of this toll-free local calling service will be the elimination of the Bay Minette exception (A 3.10.2).

<sup>6</sup> The Company has the discretion to apply rate increases by competitive Tier (e.g., increase Tier II and/or Tier III but not Tier I or apply the authorized 1FR increases but not 1FB increases). Rates may also be decreased in one or more competitive sectors while increased in others. However, any unapplied increases will not be accumulated and applied at a later date.

#### (4) OTHER RETAIL TELECOMMUNICATIONS SERVICES

Prices for other Retail Telecommunications Services shown in Attachment B (except as provided in Part 7B(3) and excluding Non-discretionary Retail Services) may be adjusted at the discretion of BellSouth subject to the following limitations:

- a. Tier I increases shall be at the discretion of BellSouth.
- b. Tier II increases shall be limited to fifteen percent (15%) annually per service for the first two years of the Plan. Beginning with the second anniversary of the Plan, Tier II increases shall be limited to twenty percent (20%) annually per service. Beginning with the fourth anniversary of the Plan, Tier II increases shall be limited to twenty-five percent (25%) annually per service.
- c. Tier III increases shall be limited to five (5%) annually per service for the first two years of the Plan. Beginning with the second anniversary of the Plan, Tier III increases shall be limited to ten percent (10%) annually per service. Beginning with the fourth anniversary of the Plan, Tier III increases shall be limited to fifteen percent (15%) annually per service.

#### C. Pricing Rules – Switched/Special Access Services and Local Access Services

- (1) BellSouth's combination of the traffic sensitive per minute charge for originating and terminating switched access service will be capped<sup>7</sup> at the effective intrastate level (including any non-traffic sensitive rate elements) and special access charges capped at the interstate level as of the date this Plan is implemented.
- (2) No Commission-directed intrastate access reduction will occur unless the subsidy to non-bundled, existing traditional flat-rate local exchange services for residential service provided by switched access is replaced by an end user charge, an increase in local service rates (in addition to those provided for in Part 7B of this Plan), or by the introduction of an intrastate universal service fund. The establishment of an end user charge or an intrastate universal service fund will only occur following notice and hearing.
- (3) Regarding Local Access Services, the resale discount applicable to BellSouth's prices for standalone, regulated retail telecommunications services and terms, conditions, and prices for unbundled network elements will be formally reviewed and appropriately adjusted periodically following a hearing by the Commission. Further, BellSouth shall agree to abide by the Code of Conduct attached hereto as Attachment C.

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<sup>7</sup> Excludes any access reductions associated with the USF High Cost Fund distribution, should it be eliminated or significantly reduced. The cap applies to intrastate switched access charges without application of subsidy from the USF High Cost Fund annual distribution.

## 8. CONTRACT SERVICE ARRANGEMENTS

- A. Customer-specific contract service arrangements ("CSAs") may be offered by BellSouth to customers in Tier I<sup>8</sup> for any product or service provided by BellSouth and regulated by the Commission. CSAs may be offered by BellSouth to customers in Tier II and Tier III for any product or service provided by BellSouth and regulated by the Commission in response to a competitive alternative or other unique circumstances.<sup>9</sup> Rates, terms, conditions, and additional regulations, if applicable, for the CSA will be developed on an individual case basis and will include all relevant costs, plus an appropriate level of contribution. Unless otherwise specified, regulations applicable to a CSA are in addition to the applicable rates and regulations specified in BellSouth's tariffs.
- B. On the fifth work day of each month, BellSouth will provide the Commission's Telecommunications Division, with a summary of the CSAs offered in the preceding calendar month. The summary will include the identification of the customer, the competitive Tier associated with the customer, a list of the services offered under the CSA, the retail price for each service from the tariff, the CSA price, TSLRIC support, and details about competitive alternatives if the CSA is offered in Tier II or Tier III. BellSouth will provide the CSA summary electronically via secure web page or other data storage medium. BellSouth will, as required, provide the Commission staff with access to detailed cost support for any CSA the staff chooses to review. BellSouth and the Attorney General agree to keep a comprehensive proprietary agreement in effect at all times to allow the Attorney General access to any proprietary/confidential information provided to the Commission's staff. All CSA information and supporting data is proprietary and will not be released to parties outside the Commission and Attorney General's Office without the written consent of the CSA customer and BellSouth.
- C. The Commission retains authority to investigate CSAs. Should any CSA be found in non-compliance with the requirements of 8A to this Plan and/or to be priced below the TSLRIC price floor without the Commission's prior approval, the Commission may take remedial action to include suspending, for any period deemed appropriate by the Commission, the CSA provisions of this Plan for BellSouth.

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<sup>8</sup> If a CSA customer has locations in Tier I and TierII/Tier III, all of the locations will be treated as Tier I

<sup>9</sup> As previously referenced, the term "other unique circumstances" is defined as a unique customer telecommunications service requirement wherein a competitive alternative does not necessarily exist but the arrangement of products and/or services is generally unavailable in the approved tariff or wherein the Commission deems it to be in the public interest to offer the products and services at prices below those authorized in the approved tariff on a case-by-case basis.

## 9. PROMOTIONS, CUSTOMER VALUE PROGRAMS, MARKETING/TECHNICAL TRIALS, & BUNDLED SERVICES

### A. General

The following rules apply to all Promotions, Customer Value Programs, Marketing/Technical Trials, and Bundled Service Offerings submitted for the Commission's consideration.

- (1) Promotions, Customer Value Programs, Marketing/Technical Trials, and Bundled Service Offerings will be priced above TSLRIC. BellSouth will, as required, provide the Commission staff with access to detailed cost support for any of the above referenced offerings the staff chooses to review.
- (2) For purposes of complying with the cost floor requirement, the Plan assumes a pro rata allocation<sup>10</sup> of the discount in retail price associated with the entire offering is applicable to the regulated services portion of the offering unless demonstrated otherwise to the Commission's satisfaction. The TSLRIC cost floor requirement is applicable only to services regulated by the Commission. Regulated services already priced at or below TSLRIC due to regulatory mandate (e.g., 1FR service) will be excluded from the cost floor limitation and the pro-rata discount allocation.
- (3) A transmittal letter shall be provided to the Commission within five (5) work days following the effective date and will include the supporting documentation referenced in Parts 9B, 9C, 9D, and 9E.
- (4) Additional cost support will, upon request, be submitted electronically to the Commission's Telecommunications Division under standing proprietary agreement to include:
  - a. TSLRIC for all regulated services included in Promotions, Customer Value Programs, Marketing/Technical Trials, and Bundled Service Offerings;
  - b. The stand-alone retail price (or package price if not marketed on a stand-alone basis) for both regulated and unregulated services.
- (5) The Commission retains authority to investigate Promotions, Customer Value Programs, Marketing/Technical Trials, and Bundled Service Offerings. Should any be found in non-compliance with the requirements of Part 9 to this Plan and/or to be priced below the TSLRIC price floor without the Commission's prior approval, the Commission may take remedial action to include suspending, for any period deemed

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<sup>10</sup> If, for example, the discount from the combined retail prices of both regulated and unregulated services is 20%, the discount applied to the retail price for regulated services is assumed to be 20% and the resulting discounted price must exceed the TSLRIC for those regulated services. In those cases where a contract exists between BellSouth and affiliated or non-affiliated providers of unregulated services that spells out the discount applicable to the non-regulated services, the Commission may use the contractual discounts for those non-regulated services in lieu of the pro rata allocation for its cost floor analysis.

appropriate by the Commission, the provisions of this Plan whereby BellSouth may offer Promotions, Customer Value Programs, Marketing/Technical Trials, and Bundled Service Offerings.

#### B. Promotions

Subject to the availability of products, services, and facilities, Promotions will be available to all subscribers meeting the eligibility criteria as set forth in the Promotion. The following supporting documentation must be provided for the promotion:

- (1) A description of the Promotion (including terms, conditions and price);
- (2) A description of the geographic area in which the Promotion will be offered;
- (3) The eligibility criteria for the Promotion;
- (4) The marketing period (beginning and ending dates);
- (5) A detailed description of the services included in the Promotion; and,
- (6) Availability for resale.

#### C. Customer Value Programs:

Customer Value Programs (CVPs) will be available on a non-discriminatory basis to all subscribers meeting the eligibility criteria for each Program. The following supporting documentation must be provided for the CVP:

- (1) A description of the CVP (including terms, conditions and price);
- (2) A description of the geographic area in which the CVP will be offered;
- (3) The eligibility criteria for the CVP;
- (4) The marketing period (beginning and ending dates); and,
- (5) Availability for resale.

#### D. Marketing/Technical Trials

The following supporting documentation must be included must be provided for all Marketing/Technical Trials:

- (1) A description of the parameters of the Trial (including terms and conditions);
- (2) A description of the geographic area in which the Trial will be offered; and,

- (3) The rates and charges for the Trial, including any applicable range of rates within which the rates may be increased or decreased.

Marketing/Technical Trials may be offered for not less than one (1) month or not more than twelve (12) months.

#### E. Bundled Services<sup>11</sup>

Subject to the availability of products, services, and facilities, Bundled Services will be available to all subscribers meeting the eligibility criteria for such Bundled Services. The services bundle must be made available to qualified customers, on a non-discriminatory basis, at their request.

The following supporting documentation must be provided for all Bundled Service offerings:

- (1) A detailed description for each Bundled Service including whether the service is regulated or unregulated, terms, conditions, and the bundled price;
- (2) A description of the geographic area in which the Bundled Service will be offered;
  - a. The eligibility criteria for the Bundled Service;
  - b. The marketing period (beginning and ending dates); and,
  - c. Availability for resale.

### 10. SERVICE QUALITY

- A. BellSouth will conform to the service standards outlined in Section T-21 of the Commission's Telephone Rules as currently exist or as subsequently modified. BellSouth agrees to provide, electronically if feasible and on time, all data and reports required by the Commission Staff for monitoring and/or investigating wholesale and retail service performance. Service quality data and/or reports will be addressed in a Commission Service Quality Workshop and the resulting requirements included as Attachment D (Service Quality).
- B. If BellSouth fails to achieve the Commission's minimum service quality standards or otherwise fails to provide service deemed adequate and safe for the public, the Commission may, after notice and hearing, institute a probationary period for a length of time of the Commission's choosing during which BellSouth will be afforded an opportunity to achieve the Commission's requirements for service. Following the

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<sup>11</sup> Existing rules and regulations, such as those involving bill payment, the allocation of payments between regulated and non-regulated services, and discontinuance of service for non-payment, remain in effect when customers subscribe to Bundled Services, unless and until modified by the Commission.

probationary period, if the Commission's service requirements are not achieved, the Commission may require BellSouth to credit customer bills for 1FR/1FB<sup>12</sup> service in affected wire centers each month until the Commission's service requirements are achieved. The amount of the credit shall not exceed 15% of the monthly 1FR/1FB rate and may be retroactive to the beginning of the probationary period.

- C. BellSouth will abide by all FCC and Commission rules and requirements, as currently exist, or as developed/modified on a going forward basis, for telephone number portability.

## 11. CUSTOMER NOTIFICATION

- A. BellSouth will provide customer notification of any price increases to all affected customers either by bill message, bill insert or direct mail at the option of the Company at least seven (7) calendar days before any regulated prices are increased. Notice of a price increase shall include at a minimum the effective date of the price change(s), the existing price(s), and the new price(s).
- B. Any affected customer may, within thirty (30) days of the Effective Date of any price increase, elect to cancel his/her subscription to a service that has been increased and BellSouth will credit the customer's bill by the amount of the price increase if the increase has been reflected on the customer's bill prior to the cancellation of the service.

## 12. REPORTING & FILING REQUIREMENTS

- A. BellSouth will comply with the Commission's filing requirements in either hard copy or electronic format (or both as directed by the Commission). BellSouth will provide web access to their Commission approved tariffs and an archive of previously approved tariff pages. Alternatively, BellSouth will submit to the Commission, within 5 work days from the effective date of tariff revisions, an updated electronic version of their entire tariff and an updated archive of previously approved tariff pages. The archive of previously approved tariff pages is for revisions beginning no later than the implementation date of this Plan.
- B. On a monthly basis, BellSouth will report the number and type of access lines (residence/business) served in each wire center.
- C. On a monthly basis, BellSouth will report the customer name and location of pay phone service provider (PSP) and shared tenant service (STS) access lines served in each wire center.

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<sup>12</sup> In addition to 1FR/1FB service, the credit applies to all other local calling plans. However, the amount of the credit applied to other local calling plans is based on the tariff rate for 1FR/1FB service.



- D. The Commission shall address other specific reporting requirements for this Plan under a separate docket.

### 13. CUSTOMER COMPLAINT RESOLUTION

The Commission's existing customer complaint procedures shall remain in effect.

### 14. COMMISSION OVERSIGHT

- A. The Alabama Telecommunications Regulation Plan ("ATRP") is hereby implemented by the Commission as an alternative method of regulating the telecommunications industry in Alabama pursuant to the provisions of Code of Alabama 1975, §37-1-80(b). Nothing in the Alabama Telecommunications Regulation Plan abrogates any statutorily granted authority of the Commission, including Code of Alabama, 1975 §37-1-80(a). The Commission reserves the right to exercise any authority statutorily granted to the Commission depending on the circumstances present in the telecommunications industry in Alabama. The Commission will, however, exercise any statutory provisions which are inconsistent with the ATRP only after notice and a hearing.
- B. With the adoption of the ATRP, the Commission will remain actively involved in public interest concerns, the quality of services rendered and received, the availability of new services and technologies and other consumer oriented issues. However, nothing herein shall relieve regulated telecommunications carriers in Alabama from their ongoing obligation to provide financial cost or other related data that the Commission requires.
- C. The Commission specifically reserves the right to review and/or revise the Alabama Telecommunications Regulation Plan in the event of rulings and/or decisions from the federal and/or state court systems as well as the Federal Communications Commission which have a major impact on the telecommunications industry in Alabama. Revisions to the ATRP will, however, only be implemented by the Commission following notice and a hearing. The determination of whether a ruling and/or decision shall be reviewed by the Commission for purposes of revising the ATRP or otherwise shall be made by the Commission on its own motion or following a petition seeking such a determination by an interested party.

### 15. EXPANDED ALTERNATIVE DISPUTE RESOLUTION PROCEDURES

Commission conducted/supervised Mediation shall be available to any telecommunications carrier subject to the jurisdiction of the Commission for purposes of resolving disputes with other carriers. Mediation is a dispute resolution mechanism primarily available for two-party disputes, and is not to be used in substitution of generic dockets or workshops absent express agreement of all parties. The purpose of mediation is to create a voluntary forum whereby the parties may, at their own option, openly communicate with each other with the goal of reaching resolution of

issues between the parties. The Alabama Public Service Commission encourages such discussions and will work with the parties to facilitate the mediation.

The Rules governing Mediation as established herein are set forth in Attachment E. The Mediation of disputes arising as the result of negotiations instituted and conducted pursuant to § 252 of the Telecommunications Act of 1996 will continue to be addressed pursuant to Rule T-25 of the Commission's Telephone Rules.

#### 16. COMMISSION REVIEW

The Commission will conduct an assessment of this Plan beginning with the first anniversary date of the Plan in 2005 and will complete the assessment within one hundred and eighty (180) days following the first anniversary date. An additional assessment will be conducted, at the Commission's discretion, on the third anniversary date. The need for and frequency of future assessments will be determined at that time.

The Commission may not modify or repeal any portion of this Plan without notice and hearing. BellSouth or any affected third party may, as market conditions change, petition the Commission for modifications to this Plan. Modifications will only be made following notice and hearing by the Commission.

CLASSIFICATION OF BELL SOUTH’S WIRE CENTERS

Tier I MSAs

Birmingham-Hoover	Huntsville	Mobile	Montgomery
Alabaster	Athens Elk River	Airport	Fort Deposit
Bessemer Birmingport	Athens Main	Azalea	Dalraida
Bessemer Hueytown	Gurley	Bay Front	Holtville
Bessemer Main	Hazel Green	Belle Fontaine	Main & Toll
Cahaba Heights	Lakewood	Citronelle	Millbrook
Calera	Madison New Main	Mount Vernon	Normandale
Carbon Hill	Madison Old Main	Old Shell	Prattville
Center Point	Main & Toll	Prichard	Wetumpka
Centreville	Parkway	Saraland	
Chelsea	Redstone Arsenal	Semmes	
Clanton	Research West	Skyline	
Columbiana	Strategic Defense	Springhill	
Cordova	University	Theodore	
Dora			
Eastlake			
Eastwood			
Ensley			
Five Points			
Forestdale			
Gardendale			
Graysville			
Homewood			
Jasper			
Main & Toll			
Maplesville			
Montevallo			
Oak Mountain			
Oxmoor			
Parrish			
Pinson			
Riverchase			
Tarrant			
Valley			
Vincent			
Warrior			
West Blocton			
West End			
Woodlawn			

CLASSIFICATION OF BELLSOUTH’S WIRE CENTERS

Tier II MSAs

Anniston	Auburn	Columbus	Decatur
Jacksonville	Auburn	Hurtsboro	Courtland
Lenlock	Opelika	Phoenix City Fort Mitchell	Decatur
Main & Toll		Phoenix City Main	Hartselle Main
Ohatchee			Hartselle Pence
Oxford			Moulton
Piedmont			Towncreek

Florence	Gadsden	Pensacola	Tuscaloosa
Florence	Attalla	Flomaton	Bessemer Bucksville
Killen	Boaz		Druid Hill
Leighton	Hillside		Eutaw Boligee
Lexington	Main & Toll		Eutaw Main
Rogersville	Rainbow Drive		Greensboro
Sheffield			Northport
			Tuscaloosa Main

Non-MSA Areas

Albertville	Fairhope	Red Bay
Alexander City	Fort Payne	Russellville
Bay Minette	Goodwater	Selma
Brewton	Guntersville	Spanish Fort
Bridgeport	Hanceville Bremen	Stevenson
Childersburg	Hanceville Main	Sylacauga
Clayton	Jackson	Talladega Main
Cullman Fairview	Lafayette	Talladega Renfro
Cullman Jones Chapel	Linden	Thomasville
Cullman Main	Livingston	Troy
Dadeville	Marion	Tuskegee
Demopolis	McIntosh	Uniontown
Eufaula	Munford	York
Evergreen		

CLASSIFICATION OF SERVICES BY CATEGORY

Retail Services

A2	General Regulations	Non-discretionary
A3	Basic Local Exchange Service	
	A3.2.1 Flat Rate Residence and Business Service	
	A3.2.9 Area Calling Service	
	A3.2.10 Complete Choice® Service	
	A3.10.2 Bay Minette Exception	
	A3.10.3 Bridgeport Exception	
	A3.10.4 Reverse Billing Option (Bridgeport)	
	A3.2.11 Area Plus® Service	
	A3.7 Measured Rate Service	
	A3.12 NAR Usage Packages	
	A3.13.3 Directory Assistance Service	
	A3.14.3 Local Operator and Calling Card Service	
	A3.15 Local Operator Verification/Interruption Service	
	A3.19 Grouping Service	
	A3.20 Trunk Lines	
	A3.24 Directory Assistance Call Completion Service	
	A3.25 Directory Assistance/Directory Assistance Call Completion Service	
	A3.26 Network Access Service	
	A3.27 Trunk Side Access Facility	
	A3.30 Exchange Access Premium Charge	
	A3.31 Lifeline	Non-discretionary
	A3.32 Classroom Communication Service	
	A3.38 Back-Up Line Service	
	A3.43 BellSouth Business Plus Service	
	A3.45 Complete Choice® for Business Package	
A4	Service Charges	
	A4.2.7 Installment Billing	
	A4.3 Residence and Business Service Charges	
	A4.4 Dual Service	
	A4.7 Link-Up	Non-discretionary
A5	Charges Applicable Under Special Conditions	
A6	Directory Listings	
A8	Telephone Answering Service Facilities	
A9	Foreign Exchange Service & Foreign Central Office Service	
A12	Central Office Non-Transport Offerings	
	A12.4 Assigned Centrex Type Services Telephone Numbers Without Facilities	
	A12.7 Direct-Inward Dialing Service	
	A12.8 Identified-Outward Dialing From PBX Systems	
	A12.16 Prestige® Communications Service	
	A12.20 MultiServ® Service	
	A12.21 MultiServ® Plus Service	
	A12.22 MultiServ® Multi-Account Service	
	A12.25 BellSouth® Centrex Service	
	A12.26 BellSouth® Centrex ISDN Service	
A13	Miscellaneous Service Arrangements	
	A13.5 Arrangements for Night, Sunday and Holiday Service	
	A13.9 Custom Calling Service	
	Call Waiting and Call Waiting Deluxe (all)	
	Call Forwarding Variable, Call Forwarding Busy Line,	
	Call Fwd Don't Ans with or w/o ring control	
	A13.11 Remote Call Forwarding	

A13.12	Selective Class of Call Screening Service	
A13.13	Dormitory Communications Service	
A13.14	Toll Trunks	
A13.16	Local Calling Area Conference Service	
A13.17	Feature Packages	
A13.19	TouchStar® Service	
	Caller ID Basic, Caller ID Deluxe with or without ACR and Enhanced Caller ID	
A13.20	Call Screening and Restriction Services	
A13.25	Extension Line Channels	
A13.27	Emergency Reporting Services	Non-discretionary
A13.30	Automatic Time and Charge Reporting Service	
A13.34	Ringmaster® Service	
A13.46	SMDI	
A13.47	Message Waiting Indication	
A13.49	Surrogate Client Number	
A13.50	Telecommunications Service Priority System	
A13.51	Electronic White Pages	
A13.53	Multiline Hunt Queuing	
A13.56	Hot Line Service	
A13.57	Warm Line Service	
A13.58	Uniform Access Number	
A13.59	Automatic Number Identification	
A13.60	Custom Service Area	
A13.61	Answer Supervision	
A13.62	Call Detail Information	
A13.70	BellSouth® Privacy Director® Service	
A13.72	Inter-Switch SMDI	
A13.76	Internet Call Waiting Service	
A13.77	Voice Mail Companion Services Package	
A13.78	BellSouth Essentials Package	
A13.79	211 Dialing Service	Non-discretionary
A13.80	711 Dialing Code for TRS	Non-discretionary
A13.81	511 Dialing Service	Non-discretionary
A14	Auxiliary Equipment	
A15	Connections With Certain Facilities and/or Equipment Of Others	
A18	Long Distance Message Telecommunications Service	
A19	Wide Area Telecommunications Service	
A20	Optional Calling Plans	
A29	Data Transport Service	
A32	Integration Plus Management Services	
A34	Advanced Intelligent Network Services	
A37	Billing and Collection Services	
A38	Listing Services	
A40	Fast Packet Transport Services	
A42	ISDN	
A43	Channelized Voice Transport Services	
A47	BellSouth® Remote Access Service	
A103	Obsolete Service Offerings – Basic Local Exchange Services	
A108	Obsolete Service Offerings – Telephone Answering Service Facilities	
A111	Obsolete Service Offerings – ESSX-1 Service	

A112	Obsolete Service Offerings – Central Office Non-Transport Services
A113	Obsolete Service Offerings – Miscellaneous Service Arrangements
A120	Obsolete Service Offerings – Optional Calling Plans
A123	Obsolete Service Offerings – ESS Central Office Features
A125	Obsolete Service Offerings - Lightgate® Digital Service
A126	Obsolete Service Offerings – Exchange Digital Services
A129	Obsolete Service Offerings – Data Transport Service
A131	Obsolete Service Offerings – Multi-Location Business Service
A134	Obsolete Service Offerings – AIN Services
A139	Obsolete Service Offerings – Abbreviated Dialing
A140	Obsolete Service Offerings – Fast Packet Transport Services
A142	Obsolete Service Offerings – ISDN
B3	Channels
B4	Equipment
B7	Digital Network Services
B8	Custom Network Service
B103	Obsolete Service Offerings – Channels
B104	Obsolete Service Offerings – Equipment
B107	Obsolete Service Offerings – Digital Network Services

**Interconnection Services**

A7	Coin Telephone Service
A35	Interconnection of Mobile Services
E3	Carrier Common Line Access Service
E5	Ordering Options for BellSouth SWA and Special Access Service
E6	BellSouth SWA Service
E7	Special Access Service
E8	Billing and Collection Services
E9	BellSouth Directory Assistance Access Service
E18	Operator Services Access Services
E20	Expanded Interconnection Service
E21	Fast Packet Access Service
E34	Advanced Intelligent Network Service

## PART II

### ILEC PRICE CAP PLAN

#### 1. APPLICABILITY OF THE ILEC PRICE CAP PLAN

The Staff Proposed ILEC Price Cap Plan (“Price Cap Plan” or the “Plan”) for all non-BellSouth ILECs will apply to all telecommunication services regulated by the Alabama Public Service Commission (hereinafter referred to as “the Commission”). ILECs will be regulated under the Price Cap Plan unless they make a one-time choice to be regulated under the alternative ILEC Price Flexibility Plan provided in Part III of the TELCOM REG PLAN. Thereafter, ILECs must petition for Commission approval to switch from the Price Cap Plan to the Price Flexibility Plan. ILECs may not switch from the Price Flexibility Plan to the Price Cap Plan.

#### 2. DEFINITIONS

- A. “Bundled Services” are a combination of services offered as a package, whether at a single price or with the availability of the price for one contingent on the purchase of the other(s). A Bundled Service may be comprised of any telecommunications service or non-telecommunication service offered by the ILEC in any combination with telecommunication or non-telecommunication service(s) offered by an ILEC’s affiliate and/or with a non-affiliated third party provider.
- B. “Contract Service Arrangement” (“CSA”) is an arrangement wherein ILECs provide services pursuant to a contract between the ILEC its and customers in response to a competitive alternative or other unique circumstances<sup>13</sup>. Such arrangements include situations in which the services are not otherwise available through the ILEC’s tariffs, as well as situations in which the services are available through the ILEC’s tariffs, but the ILEC offers those services at prices other than those specified in the ILEC’s tariffs.

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<sup>13</sup> The term “competitive alternative” is defined as products and/or services offered by a telecommunications carrier who has the capability of providing the services to the customer at the time and place of the customer’s choosing and whose availability and pricing are such that the ILEC’s customers are reasonably expected to switch to a competitive provider. The Commission shall determine, on a case-by-case basis, the reasonableness of claims that competitive alternatives exist. The term “other unique circumstances” is defined as a unique customer telecommunications service requirement wherein a competitive alternative does not necessarily exist but the arrangement of products and/or services is generally unavailable in the approved tariff or wherein the Commission deems it to be in the public interest to offer the products and services at prices below those authorized in the approved tariff on a case-by-case basis.



- C. "Customer Value Program" (CVP) is the offering of a telecommunications service, combination of telecommunications services, or a telecommunications service or combination of telecommunications services in conjunction with a non-regulated service and/or non-telecommunications service by ILECs to eligible customers in the ILEC's service area. Customers subscribing to such programs will receive ongoing benefits for a duration that may exceed ninety (90) calendar days. Essentially, CVPs are long-term promotions (greater than 90 days in duration).
- D. "Effective Date" is the proposed date on which a new tariff or tariff revision is considered effective. The Effective Date is based on a specified number of work days following, but excluding, the File Date.
- E. "Eligibility Criteria" are the factors used to determine the customers and/or potential customers who would qualify for a Promotion, Customer Value Program, Marketing/Technical Trial, or Bundled Service: i.e., current services or services a customer must subscribe to, monthly spend, service or usage volume, term commitment, geographic location, such as wire center, and/or any other identifiable characteristic.
- F. "File Date" is the official date recorded by the office of the Director of the Commission's Administrative Division (Commission Secretary) for any proposed tariff or tariff revision submitted by a telecommunications provider and accepted by the Commission. The File Date is considered administrative in nature.
- G. "Interconnection Services" include Switched Access Services and Special Access Services, defined as follows:
  - (1) "Switched Access Services" allow toll providers to interconnect to the ILEC's network in order to originate or terminate switched toll calls.
  - (2) "Special Access Services" are services providing an analog or digital transmission path that is not switched by an ILEC end office to directly connect an interexchange carrier's ("IXC's") terminal location and an end user's premises, two IXC terminal locations, an IXC terminal location and a hub, or two end user premises.
- H. "Marketing/Technical Trial" is the offering of a telecommunications service, combination of telecommunications services, or a telecommunications service or combination of telecommunications services in conjunction with a non-regulated service and/or non-telecommunications service by the ILEC to eligible customers on a trial basis in the ILEC's service area for technical and/or marketing purposes. Such trials shall be for the purpose of evaluating, in an operating environment, the performance and pricing of the specific service or services in conjunction with other marketing and environmental factors that can influence customer demand.

- I. "New Service" is a regulated function, feature, capability, or any combination thereof, which is not offered by the ILEC as of the effective date of this Plan.
- J. "Non-discretionary Retail Telecommunication Services" are those services for which the Commission limits the degree of regulatory discretion otherwise provided in the Plan for Retail Telecommunications Services.
- K. "Promotion" is the offering of a telecommunications service, combination of telecommunications services, or a telecommunications service or combination of telecommunications services in conjunction with a non-regulated service and/or non-telecommunications service by ILECs to eligible customers in the ILEC's service area. Customers subscribing to promotional offerings receive a one-time or short-term benefit that shall not exceed ninety (90) calendar days.
- L. "Retail Telecommunications Services" are the telecommunications services, other than Interconnection Services, which are offered by ILECs and regulated by the Commission.
- M. "Telecommunications Service" is the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available to the public, regardless of the facilities used.
- N. Total Service Long Run Incremental Cost ('TSLRIC') is the incremental cost that would be incurred for the entire volume of a service. TSLRIC methodology considers all volume sensitive costs (i.e., costs that change with a change in unit demand) and volume insensitive costs (i.e., costs that do not change with a change in unit demand, but are required by the service) directly caused by and associated with that service.
- O. "Work Day" is defined as Monday through Friday and excludes weekends and officially recognized State holidays.

### 3. SERVICE CATEGORIES

Each telecommunications service offered by the ILEC and regulated by the Commission shall be assigned to one of two (2) categories: (1) Retail; and (2) Interconnection Services.

### 4. TARIFFS

ILECs shall file tariffs for all telecommunications services offered by the ILEC and regulated by the Commission. Tariffs shall be filed for any proposed change to terms, conditions, and/or prices.

Tariffs shall become effective in accordance with the provisions of subsections (A) – (F) below. The Commission retains the authority to investigate a tariff on its own motion, by intervention of another party, or as the result of a complaint filed pursuant to §37-1-83 of the Code. Any such motion, intervention or complaint shall specifically enumerate the rules and regulations of the Plan and/or Title 37 of the Code of Alabama, 1975 (the “Code”) that have been violated.

If the Commission initiates an investigation of a tariff on its own motion or based on the intervention of another party or the filing of a complaint pursuant to §37-1-83 of the Code, the tariff in question may be suspended for up to one hundred, eighty (180) days.

If the Commission initiates an investigation of a tariff based on the intervention or complaint of another party and orders a decrease in a price or prices contained therein, the ILEC shall be required to credit the difference between the effective price or prices and the Commission-ordered price or prices to affected customers during that period of time the tariff was effective.

- A. Tariffs proposing changes to terms or conditions for telecommunications services offered by the ILEC and regulated by the Commission shall be filed with an Effective Date at least thirty (30) work days following the File Date.
- B. Tariffs proposing price reductions for telecommunications services offered by ILEC and regulated by the Commission shall be filed with an Effective Date at least five (5) work days following the File Date.
- C. Tariffs proposing price increases for Retail Telecommunications Services<sup>14</sup>, Switched Access Services, or Special Access Services shall be filed with an Effective Date at least thirty (30) work days following the File Date.
- D. Tariffs proposing price increases for Non-discretionary Retail Telecommunication Services shall be filed with an Effective date at least thirty (30) work days following the File Date.
- E. Tariffs for New Services shall be filed with an Effective Date at least thirty (30) work days following the File Date.
- F. Tariffs that grandfather and/or eliminate telecommunications services shall be filed with an Effective Date at least thirty (30) work days following the File Date. For tariffs that eliminate telecommunications services, the tariff shall provide customers no less than one hundred, eighty (180) calendar days following the Effective Date during which affected customers will be given the opportunity to subscribe to alternative services before a customer’s current services are eliminated.

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<sup>14</sup> Except those Retail Telecommunication Services listed as “Non-discretionary”.

- G. ILECs will not market and/or advertise regulated services by a different name and/or rate structure than that included in the tariff on file with the Commission.

## 5. PRICING RULES

### A. Pricing Rules – General

- (1) The price for any new or existing service shall equal or exceed its TSLRIC unless: (1) specifically exempted by the Commission based on public interest concerns; or (2) ILEC in good faith, and upon Commission approval, prices the service in order to meet the equally low price of a competitor.
- (2) In the event that ILEC prices a service below TSLRIC to meet the equally low price of a competitor, any intrastate universal service fund which may exist cannot be utilized to offset the resulting revenue shortfall.
- (3) No price reductions that will result in prices below TSLRIC will be allowed unless approved by the Commission. No price reductions will be allowed for any existing services that are priced below TSLRIC on the effective date of this Plan, unless approved by the Commission.
- (4) When no TSLRIC study is readily available, the Commission may, at its discretion, consider a surrogate for the TSLRIC cost study as the basis for analyzing the price floor requirement.

### B. Pricing Rules – Retail Services

#### (1) Discretionary Retail Services

- a. Upon approval of the ILEC Price Cap Plan, prices for all services shall be capped at existing levels for three (3) years.
- b. Following the third anniversary of this Plan, prices for 1FR and 1FB service may be increased by no more than one percent (1%) annually. However, the tariff price for 1FR service shall not exceed eighteen dollars (\$18) per month and the tariff price for 1FB service shall not exceed \$39.95 per month unless, following notice and hearing, specifically approved by the Commission. Price increases for 1FR/1FB service will only be authorized in those wire centers compliant with the Commission's service quality objectives set forth in this Plan (as of the applicable anniversary date referenced above). Otherwise, prices for 1FR/1FB service in those wire centers that fail to meet the service quality objectives will remain unchanged until found in compliance.

- c. Following the third anniversary of this Plan, prices for other Retail Telecommunications Services (excluding Non-discretionary Retail Services) may be adjusted by no more than two percent (2%) per service annually.

## (2) NON-DISCRETIONARY RETAIL SERVICES

Non-Discretionary Retail Services will be identified in a Commission Workshop and will generally correspond with those Non-Discretionary Retail Services included in Part I of the TELCOM REG Plan. Prices for Non-discretionary Retail Telecommunication Services shall not be increased at the discretion of ILEC. The Company may request increases for prices of these services, on a case-by-case basis.

### C. Pricing Rules – Switched Access Services and Local Access Services

- (1) The ILEC's combination of the traffic sensitive per minute charge for originating and terminating switched access service will be capped<sup>15</sup> at the effective intrastate level (including any non-traffic sensitive rate elements) and special access charges capped at the interstate level as of the date this Plan is implemented.
- (2) No Commission-directed intrastate access reduction will occur unless the subsidy to non-bundled, existing traditional flat-rate local exchange services for residential service provided by switched access is replaced by an end user charge, an increase in local service rates (in addition to those provided for in Part 5B of this Plan), or by the introduction of an intrastate universal service fund. The establishment of an end user charge or an intrastate universal service fund will only occur following notice and hearing.

## 6. CONTRACT SERVICE ARRANGEMENTS

- A. Customer-specific contract service arrangements ("CSAs") may be offered by the ILEC for any product or service provided by the ILEC and regulated by the Commission in response to a competitive alternative or other unique circumstances.<sup>16</sup> Rates, terms, conditions, and additional regulations, if applicable, for the CSA will be developed on an individual case basis and will

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<sup>15</sup> Excludes any access reductions associated with the USF High Cost Fund distribution, should it be eliminated or significantly reduced. The cap applies to interstate switched access charges without application of subsidy from the USF High Cost Fund annual distribution.

<sup>16</sup> As previously referenced, the term "other unique circumstances" is defined as a unique customer telecommunications service requirement wherein a competitive alternative does not necessarily exist but the arrangement of products and/or services is generally unavailable in the approved tariff or wherein the Commission deems it to be in the public interest to offer the products and services at prices below those authorized in the approved tariff on a case-by-case basis.

include all relevant costs, plus an appropriate level of contribution. Unless otherwise specified, regulations applicable to a CSA are in addition to the applicable rates and regulations specified in ILEC's tariffs.

- B. A transmittal letter shall be provided to the Commission no later than five (5) work days prior to the proposed effective date for the CSA and all supporting documentation will be submitted therewith. ILECs will provide the Commission staff with access to detailed cost support for any CSA the staff chooses to review.
  - C. If the Commission staff determines that further investigation is necessary, the Company will be notified prior to the effective date and will delay implementation for no more than twenty (20) work days pending an investigation. If the Commission has not denied the request within twenty (20) work days following the proposed effective date, approval will become effective the succeeding work day. Denial will consist of a verbal notification to the Company followed by a written Commission Order<sup>17</sup>. The Commission may also notify the Company anytime within the investigatory period that the request is acceptable and approval will become effective upon that notification.
7. PROMOTIONS, CUSTOMER VALUE PROGRAMS, MARKETING/TECHNICAL TRIALS, & BUNDLED SERVICES

A. General

The following rules apply to all Promotions, Customer Value Programs, Marketing/Technical Trials, and Bundled Service Offerings submitted for the Commission's consideration.

- (1) A transmittal letter shall be provided to the Commission no later than five (5) work days prior to the proposed effective date and all supporting documentation will be submitted therewith. Cost support will be available to the Commission Staff upon request.
- (2) If the Commission staff determines that further investigation is necessary, the Company will be notified prior to the effective date and will delay implementation for no more than twenty (20) work days pending an investigation. If the Commission has not denied the request within ten (10) work days following the proposed effective date, approval will become effective the succeeding work day. Denial will consist of a verbal notification to the Company followed by a written Commission Order<sup>18</sup>. The Commission may also notify the Company anytime within the investigatory period that the

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<sup>17</sup> If the Company voluntarily withdraws the request, the requirement for a written Order disapproving the request is waived.

<sup>18</sup> If the Company voluntarily withdraws the request, the requirement for a written Order disapproving the request is waived.

request is acceptable and approval will become effective upon that notification.

#### B. Promotions

Subject to the availability of products, services, and facilities, Promotions will be available to all subscribers meeting the eligibility criteria as set forth in the Promotion. The following supporting documentation must be provided for the promotion:

- (1) A description of the Promotion (including terms, conditions and price);
- (2) A description of the geographic area in which the Promotion will be offered;
- (3) The eligibility criteria for the Promotion;
- (4) The marketing period (beginning and ending dates);
- (5) A detailed description of the services included in the Promotion.

#### C. Customer Value Programs:

Customer Value Programs (CVPs) will be available on a non-discriminatory basis to all subscribers meeting the eligibility criteria for each Program. The following supporting documentation must be provided for the CVP:

- (1) A description of the CVP (including terms, conditions and price);
- (2) A description of the geographic area in which the CVP will be offered;
- (3) The eligibility criteria for the CVP;
- (4) The marketing period (beginning and ending dates).

#### D. Marketing/Technical Trials

The following supporting documentation must be included must be provided for all Marketing/Technical Trials:

- (1) A description of the parameters of the Trial (including terms and conditions);
- (2) A description of the geographic area in which the Trial will be offered; and,
- (3) The rates and charges for the Trial, including any applicable range of rates within which the rates may be increased or decreased.

Marketing/Technical Trials may be offered for not less than one (1) month or not more than twelve (12) months.

E. Bundled Services<sup>19</sup>

Subject to the availability of products, services, and facilities, Bundled Services will be available to all subscribers meeting the eligibility criteria for such Bundled Services. The services bundle must be made available to qualified customers, on a non-discriminatory basis, at their request.

The following supporting documentation must be provided for all Bundled Service offerings:

- (1) A detailed description for each Bundled Service including whether the service is regulated or unregulated, terms, conditions, and the bundled price;
- (2) A description of the geographic area in which the Bundled Service will be offered;
  - a. The eligibility criteria for the Bundled Service;
  - b. The marketing period (beginning and ending dates).

8. SERVICE QUALITY

- A. ILECs will conform to the service standards outlined in Section T-21 of the Commission's Telephone Rules Section T-21 of the Commission's Telephone Rules as currently exist or as subsequently modified. ILECs agree to provide, electronically if feasible and on time, all data and reports required by the Commission Staff for monitoring and/or investigating wholesale and retail service performance. Service quality data and/or reports will be addressed in a Commission Service Quality Workshop and the resulting requirements included as Attachment D (Service Quality).
- B. If the ILEC fails to achieve the Commission's minimum service quality standards or otherwise fails to provide service deemed adequate and safe for the public, the Commission may, after notice and hearing, institute a probationary period for a length of time of the Commission's choosing during which the ILEC will be afforded an opportunity to achieve the Commission's requirements for service. Following the probationary period, if the Commission's service requirements are not achieved, the Commission may require the ILEC to credit customer bills for

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<sup>19</sup> Existing rules and regulations, such as those involving bill payment, the allocation of payments between regulated and nonregulated services, and discontinuance of service for non-payment, remain in effect when customers subscribe to Bundled Services, unless and until modified by the Commission.



1FR/1FB<sup>20</sup> service in affected wire centers each month until the Commission's service requirements are achieved. The amount of the credit shall not exceed 15% of the monthly 1FR/1FB rate and may be retroactive to the beginning of the probationary period.

- C. ILECs will abide by all FCC and Commission rules and requirements, as currently exist, or as developed/modified on a going forward basis, for telephone number portability.

## 9. CUSTOMER NOTIFICATION

- A. ILECs will provide customer notification of any price increases to all affected customers either by bill message, bill insert or direct mail at the option of the Company at least seven (7) calendar days before any regulated prices are increased. Notice of a price increase shall include at a minimum the effective date of the price change(s), the existing price(s), and the new price(s).
- B. Any affected customer may, within thirty (30) days of the Effective Date of any price increase, elect to cancel his/her subscription to a service that has been increased and the ILEC will credit the customer's bill by the amount of the price increase if the increase has been reflected on the customer's bill prior to the cancellation of the service.

## 10. REPORTING & FILING REQUIREMENTS

- A. ILECs will comply with the Commission's filing requirements in either hard copy or electronic format (or both as directed by the Commission). ILECs will provide web access to their Commission approved tariffs and an archive of previously approved tariff pages. Alternatively, ILECs will submit to the Commission, within 5 work days from the effective date of tariff revisions, an updated electronic version of their entire tariff and an updated archive of previously approved tariff pages. The archive of previously approved tariff pages is for revisions beginning no later than the implementation date of this Plan.
- B. On a monthly basis, ILECs will report the number and type of access lines (residence/business) served in each wire center.
- C. On a monthly basis, ILECs will report the customer name and location of pay phone service provider (PSP) and shared tenant service (STS) access lines served by the ILEC in each wire center.

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<sup>20</sup> In addition to 1FR/1FB service, the credit applies to all other local calling plans. However, the amount of the credit applied to other local calling plans is based on the tariff rate for 1FR/1FB service.

- D. The Commission shall address other specific reporting requirements for this Plan under a separate docket.

## 11. CUSTOMER COMPLAINT RESOLUTION

The Commission's existing customer complaint procedures shall remain in effect.

## 12. COMMISSION OVERSIGHT

- D. The Alabama Telecommunications Regulation Plan ("ATRP") is hereby implemented by the Commission as an alternative method of regulating the telecommunications industry in Alabama pursuant to the provisions of Code of Alabama 1975, §37-1-80(b). Nothing in the Alabama Telecommunications Regulation Plan abrogates any statutorily granted authority of the Commission, including Code of Alabama, 1975 §37-1-80(a). The Commission reserves the right to exercise any authority statutorily granted to the Commission depending on the circumstances present in the telecommunications industry in Alabama. The Commission will, however, exercise any statutory provisions which are inconsistent with the ATRP only after notice and a hearing.
- E. With the adoption of the ATRP, the Commission will remain actively involved in public interest concerns, the quality of services rendered and received, the availability of new services and technologies and other consumer oriented issues. However, nothing herein shall relieve regulated telecommunications carriers in Alabama from their ongoing obligation to provide financial cost or other related data that the Commission requires.
- F. The Commission specifically reserves the right to review and/or revise the Alabama Telecommunications Regulation Plan in the event of rulings and/or decisions from the federal and/or state court systems as well as the Federal Communications Commission which have a major impact on the telecommunications industry in Alabama. Revisions to the ATRP will, however, only be implemented by the Commission following notice and a hearing. The determination of whether a ruling and/or decision shall be reviewed by the Commission for purposes of revising the ATRP or otherwise shall be made by the Commission on its own motion or following a petition seeking such a determination by an interested party.

## 13. EXPANDED ALTERNATIVE DISPUTE RESOLUTION PROCEDURES

Commission conducted/supervised Mediation shall be available to any telecommunications carrier subject to the jurisdiction of the Commission for purposes of

resolving disputes with other carriers. Mediation is a dispute resolution mechanism primarily available for two-party disputes, and is not to be used in substitution of generic dockets or workshops absent express agreement of all parties. The purpose of mediation is to create a voluntary forum whereby the parties may, at their own option, openly communicate with each other with the goal of reaching resolution of issues between the parties. The Alabama Public Service Commission encourages such discussions and will work with the parties to facilitate the mediation.

The Rules governing Mediation as established herein are set forth in Attachment E. The Mediation of disputes arising as the result of negotiations instituted and conducted pursuant to § 252 of the Telecommunications Act of 1996 will continue to be addressed pursuant to Rule T-25 of the Commission's Telephone Rules.

#### 14. COMMISSION REVIEW

The Commission will conduct an assessment of this Plan beginning with the first anniversary date of the Plan in 2005 and will complete the assessment within one hundred and eighty (180) days following the first anniversary date. An additional assessment will be conducted, at the Commission's discretion, on the third anniversary date. The need for and frequency of future assessments will be determined at that time.

The Commission may not modify or repeal any portion of this Plan without notice and hearing. ILECs or any affected third party may, as market conditions change, petition the Commission for modifications to this Plan. Modifications will only be made following notice and hearing by the Commission.

### PART III

## ILEC PRICE FLEXIBILITY PLAN

### 1. APPLICABILITY OF THE ILEC PRICE FLEXIBILITY PLAN

- A. The Staff Proposed ILEC Price Flexibility Plan (the “ILEC Plan” or the “Plan”) for Incumbent Local Exchange Carriers (“ILECs”) applies to all telecommunications services offered by ILECs (except BellSouth) and regulated by the Commission who choose to waive their exemption from competition and, thereby, request additional pricing flexibility than is offered through the ILEC Price Cap Plan.
- B. ILECs must petition the Commission for approval to be regulated under the optional ILEC Plan and must qualify by complying with all of the following:
  - (1) The ILEC’s monthly price for 1FR service at the initiation of this Plan must be no higher than \$16.30 unless exempted by the Commission.
  - (2) The ILEC has waived their rural exemption from competition and agrees to offer their services for resale and to offer unbundled elements of their network, as technically feasible and as required by regulatory rules, upon request.
  - (3) The ILECs agree to negotiate with requesting CLECs, in good faith and a timely manner, for resale, local interconnection, and collocation prices. If agreement on prices for resale, local interconnection, and collocation cannot be achieved, either party may request Commission mediation of the negotiations and ILECs agree to participate in any subsequent Commission mediation of the negotiations. If mediation fails, ILECs agree to abide by Commission arbitration of the aforementioned prices.
  - (4) The ILEC has an approved, optional Local Calling Plan<sup>21</sup> (LCP).

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<sup>21</sup> The Local Calling Plan (LCP) is a calling plan designed to provide an expanded local calling capability for residential and business customers. The LCP shall provide for local calling within the county and to key communities of interest beyond county boundaries, to include across LATA boundaries where feasible. The LCP price may incorporate a capped usage allowance. Each company’s LCP will be reviewed by the Commission for purposes of determining whether it reasonably meets the Commission’s objectives for expanded local calling.

## 2. DEFINITIONS

- A. “Bundled Services” are a combination of services offered as a package, whether at a single price or with the availability of the price for one contingent on the purchase of the other(s). A Bundled Service may be comprised of any telecommunications service or non-telecommunication service offered by the ILEC in any combination with telecommunication or non-telecommunication service(s) offered by an ILEC’s affiliate and/or with a non-affiliated third party provider.
- B. “Contract Service Arrangement” (“CSA”) is an arrangement wherein the ILEC provides services pursuant to a contract between the ILEC and customers in Tier I where competitive alternatives are known to exist and in Tier II and Tier III in response to a competitive alternative or other unique circumstances<sup>22</sup>. Such arrangements include situations in which the services are not otherwise available through ILEC’s tariffs, as well as situations in which the services are available through ILEC’s tariffs, but the ILEC offers those services at prices other than those specified in the ILEC’s tariffs.
- C. “Customer Value Program” (CVP) is the offering of a telecommunications service, combination of telecommunications services, or a telecommunications service or combination of telecommunications services in conjunction with a non-regulated service and/or non-telecommunications service by ILECs to eligible customers in the ILEC’s service area. Customers subscribing to such programs will receive ongoing benefits for a duration that may exceed ninety (90) calendar days. Essentially, CVPs are long-term promotions (greater than 90 days in duration).
- D. “Effective Date” is the proposed date on which a new tariff or tariff revision is considered effective. The Effective Date is based on a specified number of work days following, but excluding, the File Date.
- E. “Eligibility Criteria” are the factors used to determine the customers and/or potential customers who would qualify for a Promotion, Customer Value Program, Marketing/Technical Trial, or Bundled Service: i.e., current services or services a customer must subscribe to, monthly spend, service or usage volume,

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<sup>22</sup> The term “competitive alternative” is defined as products and/or services offered by a telecommunications carrier who has the capability of providing the services to the customer at the time and place of the customer’s choosing and whose availability and pricing are such that the ILEC’s customers are reasonably expected to switch to a competitive provider. The Commission shall determine, on a case-by-case basis, the reasonableness of claims that competitive alternatives exist. The term “other unique circumstances” is defined as a unique customer telecommunications service requirement wherein a competitive alternative does not necessarily exist but the arrangement of products and/or services is generally unavailable in the approved tariff or wherein the Commission deems it to be in the public interest to offer the products and services at prices below those authorized in the approved tariff on a case-by-case basis.

term commitment, geographic location, such as wire center, and/or any other identifiable characteristic.

- F. "File Date" is the official date recorded by the office of the Director of the Commission's Administrative Division (Commission Secretary) for any proposed tariff or tariff revision submitted by a telecommunications provider and accepted by the Commission. The File Date is considered administrative in nature.
- G. "Interconnection Services" include Switched Access Services, Special Access Services, and Local Access Services and are defined as follows:
  - (5) "Switched Access Services" allow toll providers to interconnect to ILEC's network in order to originate or terminate switched toll calls.
  - (6) "Special Access Services" are services providing an analog or digital transmission path that is not switched by a ILEC end office to directly connect an interexchange carrier's ("IXC's") terminal location and an end user's premises, two IXC terminal locations, an IXC terminal location and a hub, or two end user premises.
  - (7) "Local Access Services" allow competitive local exchange carriers ("CLECs") or other providers of local exchange services to complete local calls via the ILEC's network pursuant to the Telecommunications Act of 1996 ("the Act") through the interconnection of a CLEC's or other provider's network to the ILEC's network, through the resale by a CLEC of the ILEC's regulated retail services, or through the purchase by the CLEC of unbundled network elements ("UNEs") offered by the ILEC.
- H. Intra/Inter-modal<sup>23</sup> is a categorization that, for purposes of this Plan, describes competition for wire line subscribers in relation to the delivery means used by ILECs for provisioning local exchange service. Intra-modal competition describes basic local telephone service provided by regulated telecommunication carriers, over cable or wire, to subscribers within the ILEC's exchange boundary to include telecommunications over CATV and power lines. Wire line competition exists when local telephone services are generally available to subscribers within the ILEC's exchange boundary at a level of service and at prices that make them a reasonable and viable alternative to the ILEC's services. Business private line arrangements alone are not a sufficient indicator of wire line competition. Inter-modal competition is local telephone service provided

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<sup>23</sup> The Commission's definition of intra/inter-modal competition, for purposes of this plan, may differ from the FCC definition. The FCC defines *inter-modal alternatives* as "facilities or technologies other than those found in traditional telephone networks. These include, for example, traditional or new cable plant, wireless technologies (satellite, mobile, or fixed), power line (electric grid) technologies, or other technologies not rooted in telephone networks." The Commission's definition recognizes that wire line, local exchange service, available from an alternative to the ILEC, is competition regardless of whether the service is provided by delivery means traditionally utilized by ILECs.

primarily by means other than cable or wire, such as wireless telecommunications service.

- I. "Marketing/Technical Trial" is the offering of a telecommunications service, combination of telecommunications services, or a telecommunications service or combination of telecommunications services in conjunction with a non-regulated service and/or non-telecommunications service by an ILEC to eligible customers on a trial basis in the ILEC's service area for technical and/or marketing purposes. Such trials shall be for the purpose of evaluating, in an operating environment, the performance and pricing of the specific service or services in conjunction with other marketing and environmental factors that can influence customer demand.
- J. "Metropolitan Statistical Area" ("MSA") is an area, as defined by the Office of Management and Budget, with a large population nucleus that together with adjacent communities, has a high degree of social and economic integration.
- K. "New Service" is a regulated function, feature, capability, or any combination thereof, which is not offered by the ILEC as of the effective date of this Plan.
- L. "Non-discretionary Retail Telecommunication Services" are those services for which the Commission limits the degree of regulatory discretion otherwise provided in the Plan for Retail Telecommunications Services.
- M. "Promotion" is the offering of a telecommunications service, combination of telecommunications services, or a telecommunications service or combination of telecommunications services in conjunction with a non-regulated service and/or non-telecommunications service by ILECs to eligible customers in the ILEC's service area. Customers subscribing to promotional offerings receive a one-time or short-term benefit that shall not exceed ninety (90) calendar days.
- N. "Retail Telecommunications Services" are the telecommunications services, other than Interconnection Services, which are offered by ILECs and regulated by the Commission.
- O. "Telecommunications Service" is the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available to the public, regardless of the facilities used.
- P. The term "Tier" refers to a category of wire centers demonstrating similar levels of competitive activity and may include only a subcategory of service associated with a wire center (business or residential).
- Q. Total Service Long Run Incremental Cost ("TSLRIC") is the incremental cost that would be incurred for the entire volume of a service. TSLRIC methodology considers all volume sensitive costs (i.e., costs that change with a change in unit demand) and volume insensitive costs (i.e., costs that do not change with a change

in unit demand, but are required by the service) directly caused by and associated with that service.

- R. "Work Day" is defined as Monday through Friday and excludes weekends and officially recognized State holidays.

### 3. COMPETITIVE CATEGORIES (TIERS)

For purposes of the Plan, each ILEC's service territory shall first be divided into geographical affiliation based on Metropolitan Statistical Areas ("MSAs"). However, the MSAs shall only be used as a guideline for assigning wire centers to a competitive Tier. Competitive activity and not geographical affiliation ultimately determines wire center assignment to one of three (3) Tiers. Each Tier will contain wire centers demonstrating similar competitive activity. Because competition for business telecommunication services can develop absent a similar level of competitive activity for residence service, a wire center may be assigned to one competitive Tier for business service and another for residential service. The ILEC shall request assignment of wire centers and provide justification for the proposed assignment. The Commission, however, will determine the initial classification of wire centers to each of the competitive Tiers. Additionally, on each anniversary of the Plan, the Commission may review and redefine the criteria used to assign wire centers to each of the competitive Tiers.

Initially, the following MSAs shall be designated as Tier I MSAs: Birmingham-Hoover, Mobile, Montgomery, and Huntsville. The remaining MSAs, Anniston, Auburn/Opelika, Columbus (Georgia), Decatur, Dothan, Florence, Gadsden, Pensacola (Florida), and Tuscaloosa, shall be designated as Tier II MSAs. The Non-MSA areas of the State shall be grouped together for regulatory purposes<sup>24</sup>. Additional criteria for defining levels of competitive activity will be identified by the Commission and the Company and wire centers shall be assigned to Tier I, Tier II, or Tier III before the implementation of the Plan.

### 4. CLASSIFICATION AND RECLASSIFICATION OF WIRE CENTERS

Factors upon which ILECs may request classification of wire centers into the competitive Tiers may include, but are not limited to, collocation arrangements, residential and/or business competitive market share, alternative sources of switching, alternative sources of transport, etc. Further, pricing and availability of competitive residential alternatives will be used to determine the classification of residential

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<sup>24</sup> All non-MSA wire centers will be assigned to Tier II upon demonstration by the ILEC to the Commission's satisfaction that fifty (50) percent of more of the ILEC's non-MSA wire centers are experiencing intra-modal, UNE or facilities-based competition (resale competition excluded) as evidenced by wire line telephone service being provided to subscribers within the non-MSA wire center boundary.



service in each wire center to a competitive category. ILECs will submit supporting documentation justifying the requested classification.

On each anniversary of the Plan, ILECs may file requests to reclassify Tier I, Tier II, or Tier III wire centers. ILECs shall file supporting documentation justifying the reclassification of wire centers to a different competitive Tier. Factors upon which ILECs may base its reclassification request are referenced in the preceding paragraph and must include a separate analysis for residential service.

## 5. SERVICE CATEGORIES

Each telecommunications service offered by ILECs and regulated by the Commission shall be assigned to one of two (2) categories: (1) Retail; and (2) Interconnection Services.

## 6. TARIFFS

ILECs shall file tariffs for all telecommunications services offered by ILEC and regulated by the Commission, except as specifically exempted herein. Tariffs shall be filed for any proposed change to terms, conditions, and/or prices.

Tariffs shall become effective in accordance with the provisions of subsections (A) – (F) below. The Commission retains the authority to investigate a tariff on its own motion, by intervention of another party, or as the result of a complaint filed pursuant to §37-1-83 of the Code. Any such motion, intervention or complaint shall specifically enumerate the rules and regulations of the Plan and/or Title 37 of the Code of Alabama, 1975 (the “Code”) that have been violated.

If the Commission initiates an investigation of a tariff on its own motion, the tariff in question may be suspended for up to ninety (90) days. If the Commission initiates an investigation based on the intervention of another party or the filing of a complaint pursuant to §37-1-83 of the Code, the tariff shall remain in effect pending completion of the investigation and hearing. In lieu of the suspension of proposed tariffs as the result of intervention by another party or the filing of a complaint by another party pursuant to §37-1-83 of the Code, the following procedures will be in effect.

If the Commission initiates an investigation of a tariff based on the intervention or complaint of another party within sixty (60) days of the effective date of said tariff and orders a decrease in a price or prices contained therein, ILECs shall be required to credit the difference between the effective price or prices and the Commission-ordered price or prices to affected customers during that period of time the tariff was effective, but not to exceed one-hundred, fifty (150) days.

- A. Tariffs proposing changes to terms or conditions for telecommunications services offered by ILECs and regulated by the Commission shall be filed with an Effective Date at least ten (10) work days following the File Date.
- B. Tariffs proposing price reductions for telecommunications services offered by ILECs and regulated by the Commission shall be filed with an Effective Date at least five (5) work days following the File Date.
- C. Tariffs proposing price increases for Retail Telecommunications Services<sup>25</sup>, Switched Access Services, or Special Access Services in Tier I shall be filed with an Effective Date at least five (5) work days following the File Date. Price increases for Retail Telecommunications Services, Switched Access Services, or Special Access Services in Tier II and Tier III shall be filed with an Effective Date at least ten (10) work days following the File Date.
- D. Tariffs proposing price increases for Non-discretionary Retail Telecommunication Services shall be filed with an Effective date at least thirty (30) work days following the File Date.
- E. Tariffs for New Services shall be filed with an Effective Date at least five (5) work days following the File Date.
- F. Tariffs that grandfather and/or eliminate telecommunications services shall be filed with an Effective Date at least twenty-five (25) work days following the File Date. For tariffs that eliminate telecommunications services, the tariff shall provide customers no less than one hundred, eighty (180) calendar days following the Effective Date during which affected customers will be given the opportunity to subscribe to alternative services before a customer's current services are eliminated.

## 7. PRICING RULES

### A. Pricing Rules – General

- (1) The price for any new or existing service shall equal or exceed its TSLRIC unless: (1) specifically exempted by the Commission based on public interest concerns; or (2) the ILEC in good faith, and upon Commission approval, prices the service in order to meet the equally low price of a competitor.
- (2) In the event that the ILEC prices a service below TSLRIC to meet the equally low price of a competitor, any intrastate universal service fund which may exist cannot be utilized to offset the resulting revenue shortfall.

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<sup>25</sup> Except those Retail Telecommunication Services listed as "Non-discretionary".

- (3) No price reductions that will result in prices below TSLRIC will be allowed unless approved by the Commission. No price reductions will be allowed for any existing services that are priced below TSLRIC on the effective date of this Plan, unless approved by the Commission.
- (4) When no TSLRIC study is readily available, the Commission may, at its discretion, consider a surrogate for the TSLRIC cost study as the basis for analyzing the price floor requirement.

## B. Pricing Rules – Retail Services

### (1) FLAT-RATE RESIDENTIAL AND BUSINESS SERVICE

- a. Upon approval of this Plan for ILECs, prices for 1FR service in all Tiers and 1FB service in Tier III shall be capped at existing levels for two (2) years. 1FB prices in Tier I and Tier II will be adjusted at the discretion of the ILEC subject to the limitations specified for Other Retail Telecommunication Services in Part 7B(4).
- b. Following the second and fourth anniversaries of this Plan, prices for 1FR service (including 1FB for Tier III) may, at the discretion of the Company<sup>26</sup>, be increased by five percent (5%). However, the tariff price for 1FR service shall not exceed eighteen dollars (\$18) per month and the tariff price for 1FB service in Tier III shall not exceed \$39.95 per month unless, following notice and hearing, specifically approved by the Commission. Price increases for 1FR service (including 1FB for Tier III) will only be authorized in those wire centers compliant with the Commission's service quality objectives set forth in this Plan (as of the applicable anniversary date referenced above). Otherwise, prices for 1FR service (including 1FB for Tier III) in those wire centers that fail to meet the service quality objectives will remain unchanged until found in compliance.
- c. Within 90 days following the sixth anniversary of the plan, the Commission will make a further assessment of 1FR and 1FB prices and may schedule future adjustments as deemed necessary.

### (2) NON-DISCRETIONARY RETAIL SERVICES

Non-Discretionary Retail Services will be identified in a Commission Workshop and will generally correspond with those Non-Discretionary Retail Services

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<sup>26</sup> The Company has the discretion to apply rate increases by competitive Tier (e.g., increase Tier II and/or Tier III but not Tier I or apply the authorized 1FR increases but not 1FB increases). Rates may also be decreased in one or more competitive sectors while increased in others. However, any unapplied increases will not be accumulated and applied at a later date.

included in Part I of the TELCOM REG Plan. ILEC Non-Discretionary Retail Services are shown in Attachment C. Prices for Non-discretionary Retail Telecommunication Services shall not be increased at the discretion of ILEC. The Company may request increases for prices of these services, on a case-by-case basis, in accordance with the filing requirements identified in part 6D of this Plan.

### (3) VERTICAL SERVICES

Upon approval of this Plan, the price for Residential Call Waiting, Caller I.D. and Caller I.D. Deluxe may be adjusted to mirror BellSouth's prices for those services. Thereafter, prices for Residential Call Waiting, Caller I.D. and Caller I.D. Deluxe will be capped for two years. Pricing Rules for Other Retail Telecommunication Services, Part 7B(4), shall apply for all other Business and Residential Vertical Services. Beginning with the second anniversary of the Plan, the pricing rules in 7B(4) shall thereafter apply to Residential Call Waiting, Caller I.D. and Caller I.D. Deluxe..

### (4) OTHER RETAIL TELECOMMUNICATIONS SERVICES

Prices for other Retail Telecommunications Services (except as provided in Part 7B(3) and excluding Non-discretionary Retail Services) may be adjusted at the discretion of ILECs subject to the following limitations:

- d. Tier I increases shall be at the discretion of the ILEC.
- e. Tier II increases shall be limited to fifteen percent (15%) annually per service for the first two years of the Plan. Beginning with the second anniversary of the Plan, Tier II increases shall be limited to twenty percent (20%) annually per service. Beginning with the fourth anniversary of the Plan, Tier II increases shall be limited to twenty-five percent (25%) annually per service.
- a. Tier III increases shall be limited to five (5%) annually per service for the first three years of the Plan. Beginning with the third anniversary of the Plan, Tier III increases shall be limited to ten percent (10%) annually per service. Beginning with the sixth anniversary of the Plan, Tier III increases shall be limited to fifteen percent (15%) annually per service.

### C. Pricing Rules – Switched/Special Access Services and Local Access Services

- (1) The ILEC's combination of the traffic sensitive per minute charge for originating and terminating switched access service will be capped<sup>27</sup> at the effective intrastate level (including any non-traffic sensitive rate elements) and special access charges capped at the interstate level as of the date this Plan is implemented.
- (2) No Commission-directed intrastate access reduction will occur unless the subsidy to non-bundled, existing traditional flat-rate local exchange services for residential service provided by switched access is replaced by an end user charge, an increase in local service rates (in addition to those provided for in Part 7B of this Plan), or by the introduction of an intrastate universal service fund. The establishment of an end user charge or an intrastate universal service fund will only occur following notice and hearing.
- (3) Regarding Local Access Services, the resale discount applicable to ILEC's prices for standalone, regulated retail telecommunications services and terms, conditions, and prices for unbundled network elements will be formally reviewed and appropriately adjusted periodically following a hearing by the Commission. Further, ILECs shall agree to the Code of Conduct attached hereto as Attachment C.

## 8. CONTRACT SERVICE ARRANGEMENTS

- A. Customer-specific contract service arrangements ("CSAs") may be offered by the ILEC to customers in Tier I<sup>28</sup> for any product or service provided by ILECs and regulated by the Commission. CSAs may be offered by ILECs to customers in Tier II and Tier III for any product or service provided by ILEC and regulated by the Commission in response to a competitive alternative or other unique circumstances.<sup>29</sup> Rates, terms, conditions, and additional regulations, if applicable, for the CSA will be developed on an individual case basis and will include all relevant costs, plus an appropriate level of contribution. Unless otherwise specified, regulations applicable to a CSA are in addition to the applicable rates and regulations specified in ILEC's tariffs.
- B. On the fifth work day of each month, ILECs will provide the Commission, with a summary of the CSAs offered for the preceding calendar month. The summary

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<sup>27</sup> Excludes any access reductions associated with the USF High Cost Fund distribution, should it be eliminated or significantly reduced. The cap applies to interstate switched access charges without application of subsidy from the USF High Cost Fund annual distribution.

<sup>28</sup> If a CSA customer has locations in Tier I and Tier II/Tier III, all of the locations will be treated as Tier I

<sup>29</sup> As previously referenced, the term "other unique circumstances" is defined as a unique customer telecommunications service requirement wherein a competitive alternative does not necessarily exist but the arrangement of products and/or services is generally unavailable in the approved tariff or wherein the Commission deems it to be in the public interest to offer the products and services at prices below those authorized in the approved tariff on a case-by-case basis.

will include the identification of the customer, the competitive Tier associated with the customer, a list of the services offered under the CSA, the retail price for each service from the tariff, the CSA price, TSLRIC support, and details about competitive alternatives if the CSA is offered in Tier II or Tier III. ILECs will provide the CSA summary electronically via secure web page or other data storage medium. ILECs will, as required, provide the Commission staff with access to detailed cost support for any CSA the staff chooses to review. ILECs and the Attorney General agree to keep a comprehensive proprietary agreement in effect at all times to allow the Attorney General access to any proprietary/confidential information provided to the Commission's staff. All CSA information and supporting data is proprietary and will not be released to parties outside the Commission and Attorney General's Office without the written consent of the CSA customer and the ILEC.

- C. The Commission retains authority to investigate CSAs. Should any CSA be found in non-compliance with the requirements of 8A to this Plan and/or to be priced below the price floor without the Commission's prior approval, the Commission may take remedial action to include suspending, for any period deemed appropriate by the Commission, the CSA provisions of this Plan for the ILEC.

9. PROMOTIONS, CUSTOMER VALUE PROGRAMS, MARKETING/TECHNICAL TRIALS, & BUNDLED SERVICES

A. General

The following rules apply to all Promotions, Customer Value Programs, Marketing/Technical Trials, and Bundled Service Offerings submitted for the Commission's consideration.

- (1) Promotions, Customer Value Programs, Marketing/Technical Trials, and Bundled Service Offerings will be priced above TSLRIC. ILECs will, as required, provide the Commission staff with access to detailed cost support for any of the above referenced offerings the staff chooses to review.
- (2) For purposes of complying with the cost floor requirement, the Plan assumes a pro rata allocation<sup>30</sup> of the discount in retail price associated with the entire offering is applicable to the regulated services portion of the offering unless demonstrated otherwise to the Commission's satisfaction. The TSLRIC cost

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<sup>30</sup> If, for example, the discount from the combined retail prices of both regulated and unregulated services is 20%, the discount applied to the retail price for regulated services is assumed to be 20% and the resulting discounted price must exceed the TSLRIC for those regulated services. In those cases where a contract exists between the ILEC and affiliated or non-affiliated providers of unregulated services that spells out the discount applicable to the non-regulated services, the Commission may use the contractual discounts for those non-regulated services in lieu of the pro rata allocation for its cost floor analysis.

floor requirement is applicable only to services regulated by the Commission. Regulated services already priced at or below TSLRIC due to regulatory mandate (e.g., 1FR service) will be excluded from the cost floor limitation and the pro-rata discount allocation.

- (3) A transmittal letter shall be provided to the Commission within five (5) work days following the effective date and will include the supporting documentation referenced in Parts 9B, 9C, 9D, and 9E.
- (4) Additional cost support will, upon request, be submitted electronically to the Commission's Telecommunications Division under standing proprietary agreement to include:
  - a. Cost floor support for all regulated services included in Promotions, Customer Value Programs, Marketing/Technical Trials, and Bundled Service Offerings;
  - b. The stand-alone retail price (or package price if not marketed on a stand-alone basis) for both regulated and unregulated services..
- (5) The Commission retains authority to investigate Promotions, Customer Value Programs, Marketing/Technical Trials, and Bundled Service Offerings. Should any be found in non-compliance with the requirements of Part 9 to this Plan and/or to be priced below the TSLRIC price floor without the Commission's prior approval, the Commission may take remedial action to include suspending, for any period deemed appropriate by the Commission, the provisions of this Plan whereby BellSouth may offer Promotions, Customer Value Programs, Marketing/Technical Trials, and Bundled Service Offerings.

#### B. Promotions

Subject to the availability of products, services, and facilities, Promotions will be available to all subscribers meeting the eligibility criteria as set forth in the Promotion. The following supporting documentation must be provided for the promotion:

- (7) A description of the Promotion (including terms, conditions and price);
- (8) A description of the geographic area in which the Promotion will be offered;
- (9) The eligibility criteria for the Promotion;
- (10) The marketing period (beginning and ending dates);
- (11) A detailed description of the services included in the Promotion; and,

- (12) Availability for resale.

C. Customer Value Programs:

Customer Value Programs (CVPs) will be available on a non-discriminatory basis to all subscribers meeting the eligibility criteria for each Program. The following supporting documentation must be provided for the CVP:

- (1) A description of the CVP (including terms, conditions and price);
- (2) A description of the geographic area in which the CVP will be offered;
- (3) The eligibility criteria for the CVP;
- (4) The marketing period (beginning and ending dates); and,
- (5) Availability for resale.

D. Marketing/Technical Trials

The following supporting documentation must be included must be provided for all Marketing/Technical Trials:

- (1) A description of the parameters of the Trial (including terms and conditions);
- (2) A description of the geographic area in which the Trial will be offered; and,
- (3) The rates and charges for the Trial, including any applicable range of rates within which the rates may be increased or decreased.

Marketing/Technical Trials may be offered for not less than one (1) month or not more than twelve (12) months.

E. Bundled Services<sup>31</sup>

Subject to the availability of products, services, and facilities, Bundled Services will be available to all subscribers meeting the eligibility criteria for such Bundled Services. The services bundle must be made available to qualified customers, on a non-discriminatory basis, at their request.

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<sup>31</sup> Existing rules and regulations, such as those involving bill payment, the allocation of payments between regulated and nonregulated services, and discontinuance of service for non-payment, remain in effect when customers subscribe to Bundled Services, unless and until modified by the Commission.



The following supporting documentation must be provided for all Bundled Service offerings:

- (3) A detailed description for each Bundled Service including whether the service is regulated or unregulated, terms, conditions, and the bundled price;
- (4) A description of the geographic area in which the Bundled Service will be offered;
  - a. The eligibility criteria for the Bundled Service;
  - b. The marketing period (beginning and ending dates); and,
  - c. Availability for resale.

#### 10. SERVICE QUALITY

- D. ILECs will conform to the service standards outlined in Section T-21 of the Commission's Telephone Rules Section T-21 of the Commission's Telephone Rules as currently exist or as subsequently modified. ILECs agree to provide, electronically if feasible and on time, all data and reports required by the Commission Staff for monitoring and/or investigating wholesale and retail service performance. Service quality data and/or reports will be addressed in a Commission Service Quality Workshop and the resulting requirements included as Attachment D (Service Quality).
- E. If the ILEC fails to achieve the Commission's minimum service quality standards or otherwise fails to provide service deemed adequate and safe for the public, the Commission may, after notice and hearing, institute a probationary period for a length of time of the Commission's choosing during which the ILEC will be afforded an opportunity to achieve the Commission's requirements for service. Following the probationary period, if the Commission's service requirements are not achieved, the Commission may require the ILEC to credit customer bills for 1FR/1FB<sup>32</sup> service in affected wire centers each month until the Commission's service requirements are achieved. The amount of the credit shall not exceed 15% of the monthly 1FR/1FB rate and may be retroactive to the beginning of the probationary period.
- F. ILECs will abide by all FCC and Commission rules and requirements, as currently exist, or as developed/modified on a going forward basis, for telephone number portability.

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<sup>32</sup> In addition to 1FR/1FB service, the credit applies to all other local calling plans. However, the amount of the credit applied to other local calling plans is based on the tariff rate for 1FR/1FB service.

## 11. CUSTOMER NOTIFICATION

- A. ILECs will provide customer notification of any price increases to all affected customers either by bill message, bill insert or direct mail at the option of the Company at least seven (7) calendar days before any regulated prices are increased. Notice of a price increase shall include at a minimum the effective date of the price change(s), the existing price(s), and the new price(s).
- B. Any affected customer may, within thirty (30) days of the Effective Date of any price increase, elect to cancel his/her subscription to a service that has been increased and the ILEC will credit the customer's bill by the amount of the price increase if the increase has been reflected on the customer's bill prior to the cancellation of the service.

## 12. REPORTING &amp; FILING REQUIREMENTS

- A. ILECs will comply with the Commission's filing requirements in either hard copy or electronic format (or both as directed by the Commission). ILECs will provide web access to their Commission approved tariffs and an archive of previously approved tariff pages. Alternatively, ILECs will submit to the Commission, within 5 work days from the effective date of tariff revisions, an updated electronic version of their entire tariff and an updated archive of previously approved tariff pages. The archive of previously approved tariff pages is for revisions beginning no later than the implementation date of this Plan.
- B. On a monthly basis, ILECs will report the number and type of access lines (residence/business) served in each wire center.
- C. On a monthly basis, ILECs will report the customer name and location of pay phone service provider (PSP) and shared tenant service (STS) access lines served by the ILEC in each wire center.
- D. The Commission shall address other specific reporting requirements for this Plan under a separate docket.

## 13. CUSTOMER COMPLAINT RESOLUTION

The Commission's existing customer complaint procedures shall remain in effect.

## 14. COMMISSION OVERSIGHT

- G. The Alabama Telecommunications Regulation Plan ("ATRP") is hereby implemented by the Commission as an alternative method of regulating the telecommunications industry in Alabama pursuant to the provisions of Code of

Alabama 1975, §37-1-80(b). Nothing in the Alabama Telecommunications Regulation Plan abrogates any statutorily granted authority of the Commission, including Code of Alabama, 1975 §37-1-80(a). The Commission reserves the right to exercise any authority statutorily granted to the Commission depending on the circumstances present in the telecommunications industry in Alabama. The Commission will, however, exercise any statutory provisions which are inconsistent with the ATRP only after notice and a hearing.

- H. With the adoption of the ATRP, the Commission will remain actively involved in public interest concerns, the quality of services rendered and received, the availability of new services and technologies and other consumer oriented issues. However, nothing herein shall relieve regulated telecommunications carriers in Alabama from their ongoing obligation to provide financial cost or other related data that the Commission requires.
- I. The Commission specifically reserves the right to review and/or revise the Alabama Telecommunications Regulation Plan in the event of rulings and/or decisions from the federal and/or state court systems as well as the Federal Communications Commission which have a major impact on the telecommunications industry in Alabama. Revisions to the ATRP will, however, only be implemented by the Commission following notice and a hearing. The determination of whether a ruling and/or decision shall be reviewed by the Commission for purposes of revising the ATRP or otherwise shall be made by the Commission on its own motion or following a petition seeking such a determination by an interested party.

#### 15. EXPANDED ALTERNATIVE DISPUTE RESOLUTION PROCEDURES

Commission conducted/supervised Mediation shall be available to any telecommunications carrier subject to the jurisdiction of the Commission for purposes of resolving disputes with other carriers. Mediation is a dispute resolution mechanism primarily available for two-party disputes, and is not to be used in substitution of generic dockets or workshops absent express agreement of all parties. The purpose of mediation is to create a voluntary forum whereby the parties may, at their own option, openly communicate with each other with the goal of reaching resolution of issues between the parties. The Alabama Public Service Commission encourages such discussions and will work with the parties to facilitate the mediation.

The Rules governing Mediation as established herein are set forth in Attachment E. The Mediation of disputes arising as the result of negotiations instituted and conducted pursuant to § 252 of the Telecommunications Act of 1996 will continue to be addressed pursuant to Rule T-25 of the Commission's Telephone Rules.

#### 16. COMMISSION REVIEW

The Commission will conduct an assessment of this Plan beginning with the first anniversary date of the Plan in 2005 and will complete the assessment within one hundred and eighty (180) days following the first anniversary date. An additional assessment will be conducted, at the Commission's discretion, on the third anniversary date. The need for and frequency of future assessments will be determined at that time.

The Commission may not modify or repeal any portion of this Plan without notice and hearing. ILECs or any affected third party may, as market conditions change, petition the Commission for modifications to this Plan. Modifications will only be made following notice and hearing by the Commission.

## PART IV

### CLEC PRICE FLEXIBILITY PLAN

#### 1. APPLICABILITY OF THE CLEC PRICE FLEXIBILITY PLAN

The Staff Proposed CLEC Price Flexibility Plan (the “CLEC Plan” or the “Plan”) for Competitive Local Exchange Carriers (“CLECs”) applies to all telecommunications services offered by CLECs and regulated by the Commission.

#### 2. DEFINITIONS

- A. “Bundled Services” are a combination of services offered as a package, whether at a single price or with the availability of the price for one contingent on the purchase of the other(s). A Bundled Service may be comprised of any telecommunications service or non-telecommunication service offered by the CLEC in any combination with telecommunication or non-telecommunication service(s) offered by an CLEC’s affiliate and/or with a non-affiliated third party provider.
- B. “Contract Service Arrangement” (“CSA”) is an arrangement wherein CLEC provides services pursuant to a contract between the CLEC and customers. Such arrangements include situations in which the services are not otherwise available through CLEC’s tariffs, as well as situations in which the services are available through CLEC’s tariffs, but the CLEC offers those services at prices other than those specified in CLEC’s tariffs.
- C. “Customer Value Program” (CVP) is the offering of a telecommunications service, combination of telecommunications services, or a telecommunications service or combination of telecommunications services in conjunction with a non-regulated service and/or non-telecommunications service by CLECs to eligible customers in the CLEC’s service area. Customers subscribing to such programs will receive ongoing benefits for a duration that may exceed ninety (90) calendar days. Essentially, CVPs are long-term promotions (greater than 90 days in duration).
- D. “Effective Date” is the proposed date on which a new tariff or tariff revision is considered effective. The Effective Date is based on a specified number of work days following, but excluding, the File Date.
- E. “Eligibility Criteria” are the factors used to determine the customers and/or potential customers who would qualify for a Promotion, Customer Value Program, Marketing/Technical Trial, or Bundled Service: i.e., current services or

- services a customer must subscribe to, monthly spend, service or usage volume, term commitment, geographic location, such as wire center, and/or any other identifiable characteristic.
- F. "File Date" is the official date recorded by the office of the Director of the Commission's Administrative Division (Commission Secretary) for any proposed tariff or tariff revision submitted by a telecommunications provider and accepted by the Commission. The File Date is considered administrative in nature.
- G. "Marketing/Technical Trial" is the offering of a telecommunications service, combination of telecommunications services, or a telecommunications service or combination of telecommunications services in conjunction with a non-regulated service and/or non-telecommunications service by a CLEC to eligible customers on a trial basis in the CLEC's service area for technical and/or marketing purposes. Such trials shall be for the purpose of evaluating, in an operating environment, the performance and pricing of the specific service or services in conjunction with other marketing and environmental factors that can influence customer demand.
- H. "New Service" is a regulated function, feature, capability, or any combination thereof, which is not offered by the CLEC as of the effective date of this Plan.
- I. "Non-discretionary Retail Telecommunication Services" are those services for which the Commission limits the degree of regulatory discretion otherwise provided in the Plan for Retail Telecommunications Services.
- J. "Promotion" is the offering of a telecommunications service, combination of telecommunications services, or a telecommunications service or combination of telecommunications services in conjunction with a non-regulated service and/or non-telecommunications service by CLECs to eligible customers in the CLEC's service area. Customers subscribing to promotional offerings receive a one-time or short-term benefit that shall not exceed ninety (90) calendar days.
- K. "Retail Telecommunications Services" are the telecommunications services, other than Interconnection Services, which are offered by the CLEC and regulated by the Commission.
- L. "Telecommunications Service" is the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available to the public, regardless of the facilities used.
- M. The term "Tier" refers to a category of wire centers demonstrating similar levels of competitive activity and may include only a subcategory of service associated with a wire center (business or residential).

- N. Total Service Long Run Incremental Cost ('TSLRIC') is the incremental cost that would be incurred for the entire volume of a service. TSLRIC methodology considers all volume sensitive costs (i.e., costs that change with a change in unit demand) and volume insensitive costs (i.e., costs that do not change with a change in unit demand, but are required by the service) directly caused by and associated with that service.
- O. "Work Day" is defined as Monday through Friday and excludes weekends and officially recognized State holidays.

### 3. TARIFFS

CLECs shall file tariffs for all telecommunications services offered by the CLEC and regulated by the Commission, except as specifically exempted herein. Tariffs shall be filed for any proposed change to terms, conditions, and/or prices.

Tariffs shall become effective in accordance with the provisions of subsections (A) – (F) below. The Commission retains the authority to investigate a tariff on its own motion, by intervention of another party, or as the result of a complaint filed pursuant to §37-1-83 of the Code. Any such motion, intervention or complaint shall specifically enumerate the rules and regulations of the Plan and/or Title 37 of the Code of Alabama, 1975 (the "Code") that have been violated.

If the Commission initiates an investigation of a tariff on its own motion, the tariff in question may be suspended for up to ninety (90) days. If the Commission initiates an investigation based on the intervention of another party or the filing of a complaint pursuant to §37-1-83 of the Code, the tariff shall remain in effect pending completion of the investigation and hearing. In lieu of the suspension of proposed tariffs as the result of intervention by another party or the filing of a complaint by another party pursuant to §37-1-83 of the Code, the following procedures will be in effect.

If the Commission initiates an investigation of a tariff based on the intervention or complaint of another party within sixty (60) days of the effective date of said tariff and orders a decrease in a price or prices contained therein, CLECs shall be required to credit the difference between the effective price or prices and the Commission-ordered price or prices to affected customers during that period of time the tariff was effective, but not to exceed one-hundred, fifty (150) days.

- A. Tariffs proposing changes to terms or conditions for telecommunications services offered by CLECs and regulated by the Commission shall be filed with an Effective Date at least ten (10) work days following the File Date.
- B. Tariffs proposing price reductions for telecommunications services offered by CLECs and regulated by the Commission shall be filed with an Effective Date at least five (5) work days following the File Date.

- C. Tariffs proposing price increases for Retail Telecommunications Services<sup>33</sup>, Switched Access Services, or Special Access Services in Tier I shall be filed with an Effective Date at least five (5) work days following the File Date. Price increases for Retail Telecommunications Services, Switched Access Services, or Special Access Services in Tier II and Tier III shall be filed with an Effective Date at least ten (10) work days following the File Date.
- D. Tariffs proposing price increases for Non-discretionary Retail Telecommunication Services shall be filed with an Effective date at least thirty (30) work days following the File Date.
- E. Tariffs for New Services shall be filed with an Effective Date at least five (5) work days following the File Date.
- F. Tariffs that grandfather and/or eliminate telecommunications services shall be filed with an Effective Date at least twenty-five (25) work days following the File Date. For tariffs that eliminate telecommunications services, the tariff shall provide customers no less than one hundred, eighty (180) calendar days following the Effective Date during which affected customers will be given the opportunity to subscribe to alternative services before a customer's current services are eliminated.
- G. CLECs will not market and/or advertise regulated services by a different name and/or rate structure than that included in the tariff on file with the Commission.

#### 4. PRICING RULES

##### A. Pricing Rules – General

- (1) The price for any new or existing service shall equal or exceed its TSLRIC unless: (1) specifically exempted by the Commission based on public interest concerns; or (2) the CLEC in good faith, and upon Commission approval, prices the service in order to meet the equally low price of a competitor.
- (2) No price reductions that will result in prices below TSLRIC will be allowed unless approved by the Commission. No price reductions will be allowed for any existing services that are priced below TSLRIC on the effective date of this Plan, unless approved by the Commission.
- (3) When no TSLRIC study is readily available, the Commission may, at its discretion, consider a surrogate for the TSLRIC cost study as the basis for analyzing the price floor requirement.

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<sup>33</sup> Except those Retail Telecommunication Services listed as "Non-discretionary".



## B. Pricing Rules – Retail Services

- (4) Prices for Retail Telecommunications Services may be adjusted at the discretion of the CLEC.

## 5. CONTRACT SERVICE ARRANGEMENTS

- A. CLEC CSAs shall comply with the rules for the ILEC service area wherein the affected CLEC customers are located (Part I or Part III of this plan, whichever applies).
- B. The Commission retains authority to investigate CSAs. Should any CSA be found in non-compliance with the requirements of 8A to this Plan and/or to be priced below the TSLRIC price floor without the Commission's prior approval, the Commission may take remedial action to include suspending, for any period deemed appropriate by the Commission, the CSA provisions of this Plan for the CLEC.

## 6. PROMOTIONS, CUSTOMER VALUE PROGRAMS, MARKETING/TECHNICAL TRIALS, &amp; BUNDLED SERVICES

CLECs shall comply with the rules for the ILEC service area wherein the affected CLEC customers are located (Part I or Part III of this plan, whichever applies)

## 7. SERVICE QUALITY

- A. CLECs will conform to the service standards outlined in Section T-21 of the Commission's Telephone Rules Section T-21 of the Commission's Telephone Rules as currently exist or as subsequently modified. CLECs agree to provide, electronically if feasible and on time, all data and reports required by the Commission Staff for monitoring and/or investigating wholesale and retail service performance. Service quality data and/or reports will be addressed in a Commission Service Quality Workshop and the resulting requirements included as Attachment D (Service Quality).
- B. If the CLEC fails to achieve the Commission's minimum service quality standards or otherwise fails to provide service deemed adequate and safe for the public, the Commission may, after notice and hearing, institute a probationary period for a length of time of the Commission's choosing during which the CLEC will be afforded an opportunity to achieve the Commission's requirements for service. Following the probationary period, if the Commission's service requirements are not achieved, the Commission may require the CLEC to credit

customer bills for 1FR/1FB<sup>34</sup> service in affected wire centers each month until the Commission's service requirements are achieved. The amount of the credit shall not exceed 15% of the monthly 1FR/1FB rate and may be retroactive to the beginning of the probationary period.

- C. CLECs will abide by all FCC and Commission rules and requirements, as currently exist, or as developed/modified on a going forward basis, for telephone number portability.

## 8. CUSTOMER NOTIFICATION

- A. CLECs will provide customer notification of any price increases to all affected customers either by bill message, bill insert or direct mail at the option of the Company at least seven (7) calendar days before any regulated prices are increased. Notice of a price increase shall include at a minimum the effective date of the price change(s), the existing price(s), and the new price(s).
- B. Any affected customer may, within thirty (30) days of the Effective Date of any price increase, elect to cancel his/her subscription to a service that has been increased and CLEC will credit the customer's bill by the amount of the price increase if the increase has been reflected on the customer's bill prior to the cancellation of the service.

## 9. REPORTING & FILING REQUIREMENTS

- A. CLECs will comply with the Commission's filing requirements in either hard copy or electronic format (or both as directed by the Commission). CLECs will provide web access to their Commission approved tariffs and an archive of previously approved tariff pages. Alternatively, CLECs will submit to the Commission, within 5 work days from the effective date of tariff revisions, an updated electronic version of their entire tariff and an updated archive of previously approved tariff pages. The archive of previously approved tariff pages is for revisions beginning no later than the implementation date of this Plan.
- B. On a monthly basis, CLECs will report the number of access lines served in each ILEC wire center.
- C. On a monthly basis, CLECs will report the customer name and location of pay phone service provider (PSP) and shared tenant service (STS) access lines served in each ILEC wire center.

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<sup>34</sup> In addition to 1FR/1FB service, the credit applies to all other local calling plans. However, the amount of the credit applied to other local calling plans is based on the tariff rate for 1FR/1FB service.

- D. The Commission shall address other specific reporting requirements for this Plan under a separate docket.

#### 10. CUSTOMER COMPLAINT RESOLUTION

The Commission's existing customer complaint procedures shall remain in effect.

#### 14. COMMISSION OVERSIGHT

- J. The Alabama Telecommunications Regulation Plan ("ATRP") is hereby implemented by the Commission as an alternative method of regulating the telecommunications industry in Alabama pursuant to the provisions of Code of Alabama 1975, §37-1-80(b). Nothing in the Alabama Telecommunications Regulation Plan abrogates any statutorily granted authority of the Commission, including Code of Alabama, 1975 §37-1-80(a). The Commission reserves the right to exercise any authority statutorily granted to the Commission depending on the circumstances present in the telecommunications industry in Alabama. The Commission will, however, exercise any statutory provisions which are inconsistent with the ATRP only after notice and a hearing.
- K. With the adoption of the ATRP, the Commission will remain actively involved in public interest concerns, the quality of services rendered and received, the availability of new services and technologies and other consumer oriented issues. However, nothing herein shall relieve regulated telecommunications carriers in Alabama from their ongoing obligation to provide financial cost or other related data that the Commission requires.
- L. The Commission specifically reserves the right to review and/or revise the Alabama Telecommunications Regulation Plan in the event of rulings and/or decisions from the federal and/or state court systems as well as the Federal Communications Commission which have a major impact on the telecommunications industry in Alabama. Revisions to the ATRP will, however, only be implemented by the Commission following notice and a hearing. The determination of whether a ruling and/or decision shall be reviewed by the Commission for purposes of revising the ATRP or otherwise shall be made by the Commission on its own motion or following a petition seeking such a determination by an interested party.

#### 15. EXPANDED ALTERNATIVE DISPUTE RESOLUTION PROCEDURES

Commission conducted/supervised Mediation shall be available to any telecommunications carrier subject to the jurisdiction of the Commission for purposes of resolving disputes with other carriers. Mediation is a dispute resolution mechanism

primarily available for two-party disputes, and is not to be used in substitution of generic dockets or workshops absent express agreement of all parties. The purpose of mediation is to create a voluntary forum whereby the parties may, at their own option, openly communicate with each other with the goal of reaching resolution of issues between the parties. The Alabama Public Service Commission encourages such discussions and will work with the parties to facilitate the mediation.

The Rules governing Mediation as established herein are set forth in Attachment E. The Mediation of disputes arising as the result of negotiations instituted and conducted pursuant to § 252 of the Telecommunications Act of 1996 will continue to be addressed pursuant to Rule T-25 of the Commission's Telephone Rules.

#### 11. COMMISSION REVIEW

- A. The Commission will conduct an assessment of this Plan beginning with the first anniversary date of the Plan in 2005 and will complete the assessment within one hundred and eighty (180) days following the first anniversary date. An additional assessment will be conducted, at the Commission's discretion, on the third anniversary date. The need for and frequency of future assessments will be determined at that time.
- B. The Commission may not modify or repeal any portion of this Plan without notice and hearing. CLECs or any affected third party may, as market conditions change, petition the Commission for modifications to this Plan. Modifications will only be made following notice and hearing by the Commission.

## PART V

### **TOLL SERVICE PROVIDER STREAMLINED REGULATION PLAN**

#### **APPLICABILITY OF THE TOLL SERVICE PROVIDER STREAMLINED REGULATION**

The Staff Proposed Toll Service Provider Streamlined Regulation Plan (the “Toll Provider Plan” or the “Plan”) for Inter-exchange Toll Carriers (“IXCs”) and toll resellers applies to all telecommunications services offered by toll providers and regulated by the Commission.

#### **DEFINITIONS**

- A. “Effective Date” is the proposed date on which a new tariff or tariff revision is considered effective. The Effective Date is based on a specified number of work days following, but excluding, the File Date.
- B. “File Date” is the official date recorded by the office of the Director of the Commission’s Administrative Division (Commission Secretary) for any proposed tariff or tariff revision submitted by a telecommunications provider and accepted by the Commission. The File Date is considered administrative in nature.
- C. “New Service” is a regulated function, feature, capability, or any combination thereof, which is not offered by the toll provider as of the effective date of this Plan.
- D. “Work Day” is defined as Monday through Friday and excludes weekends and officially recognized State holidays.

#### **3. TARIFFS**

Toll providers shall file tariffs for all telecommunications services offered by the toll provider and regulated by the Commission, except as specifically exempted herein. Tariffs shall be filed for any proposed change to terms, conditions, and/or prices.

Tariffs shall become effective in accordance with the provisions of subsections (A) – (B) below. The Commission retains the authority to investigate a tariff on its own motion, by intervention of another party, or as the result of a complaint filed pursuant to §37-1-83 of the Code. Any such motion, intervention or complaint shall specifically enumerate the rules and regulations of the Plan and/or Title 37 of the Code of Alabama, 1975 (the “Code”) that have been violated.

If the Commission initiates an investigation of a tariff on its own motion, the tariff in question may be suspended for up to ninety (90) days. If the Commission initiates an investigation based on the intervention of another party or the filing of a complaint pursuant to §37-1-83 of the Code, the tariff shall remain in effect pending completion of the investigation and hearing. In lieu of the suspension of proposed tariffs as the result of intervention by another party or the filing of a complaint by another party pursuant to §37-1-83 of the Code, the following procedures will be in effect.

If the Commission initiates an investigation of a tariff based on the intervention or complaint of another party within sixty (60) days of the effective date of said tariff and orders a decrease in a price or prices contained therein, toll providers shall be required to credit the difference between the effective price or prices and the Commission-ordered price or prices to affected customers during that period of time the tariff was effective, but not to exceed one-hundred, fifty (150) days.

- A. Tariffs proposing changes to terms or conditions, for new services, for rate changes associated with existing telecommunications services offered by toll providers and regulated by the Commission, and tariffs that grandfather and/or eliminate telecommunications services shall be filed with an Effective Date at least one (1) work day following the File Date.
- B. Tariffs that grandfather and/or eliminate telecommunications services shall provide customers no less than thirty (30) calendar days following the Effective Date during which affected customers will be given the opportunity to subscribe to alternative services before a customer's current services are eliminated.
- C. Toll providers will not market and/or advertise regulated services by a different name and/or rate structure than that included in the tariff on file with the Commission.

#### 4. CUSTOMER NOTIFICATION

- A. Toll providers will provide customer notification of any price increases to all affected customers either by bill message, bill insert or direct mail at the option of the Company at least seven (7) calendar days before any regulated prices are increased. Notice of a price increase shall include at a minimum the effective date of the price change(s), the existing price(s), and the new price(s).
- B. Any affected customer may, within thirty (30) days of the Effective Date of any price increase, elect to cancel his/her subscription to a service that has been increased and toll providers will credit the customer's bill by the amount of the price increase if the increase has been reflected on the customer's bill prior to the cancellation of the service.

## 5. REPORTING & FILING REQUIREMENTS

- A. Toll providers will comply with the Commission's filing requirements in either hard copy or electronic format (or both as directed by the Commission). Toll providers will provide web access to their Commission approved tariffs and an archive of previously approved tariff pages. Alternatively, toll providers will submit to the Commission, within 5 work days from the effective date of tariff revisions, an updated electronic version of their entire tariff and an updated archive of previously approved tariff pages. The archive of previously approved tariff pages is for revisions beginning no later than the implementation date of this Plan.
- B. On a quarterly basis, toll providers will report the customer name and service location of pay phone service provider (PSP), shared tenant service (STS) and Hotel/Motel service customers in Alabama wherein the toll provider serves as the underlying toll carrier.
- C. The Commission shall address other specific reporting requirements for this Plan under a separate docket.

## 6. CUSTOMER COMPLAINT RESOLUTION

The Commission's existing customer complaint procedures shall remain in effect.

## 7. EXPANDED ALTERNATIVE DISPUTE RESOLUTION PROCEDURES

Commission conducted/supervised Mediation shall be available to any telecommunications carrier subject to the jurisdiction of the Commission for purposes of resolving disputes with other carriers. Mediation is a dispute resolution mechanism primarily available for two-party disputes, and is not to be used in substitution of generic dockets or workshops absent express agreement of all parties. The purpose of mediation is to create a voluntary forum whereby the parties may, at their own option, openly communicate with each other with the goal of reaching resolution of issues between the parties. The Alabama Public Service Commission encourages such discussions and will work with the parties to facilitate the mediation.

The Rules governing Mediation as established herein are set forth in Attachment E. The Mediation of disputes arising as the result of negotiations instituted and conducted pursuant to § 252 of the Telecommunications Act of 1996 will continue to be addressed pursuant to Rule T-25 of the Commission's Telephone Rules.

## 8. COMMISSION REVIEW

- A. The Commission will conduct an assessment of this Plan beginning with the first anniversary date of the Plan in 2005 and will complete the assessment within one hundred and eighty (180) days following the first anniversary date. An additional assessment will be conducted, at the Commission's discretion, on the third anniversary date. The need for and frequency of future assessments will be determined at that time.
- B. The Commission may not modify or repeal any portion of this Plan without notice and hearing. Toll providers or any affected third party may, as market conditions change, petition the Commission for modifications to this Plan. Modifications will only be made following notice and hearing by the Commission.



**DOCKET 28590**

**ATTACHMENT C**

**Code of Conduct**

**(1) Definitions.**

(a) Customer: Any person, firm partnership, corporation, municipality, cooperative, organization, governmental agency, etc., provided with telecommunications services by a Local Exchange Company.

(b) Local Exchange Company ("LEC") or Local Service Provider: A telecommunications company certified by the Commission to provide local exchange services.

(c) Proprietary Information: Information received by one LEC ("the receiving LEC") from another LEC ("the providing LEC") that: (i) the providing LEC reasonably designates as proprietary and confidential; or (ii) the receiving LEC has reason to believe the providing LEC intends to be treated as proprietary and confidential.

(d) Telecommunications service: Any service within the definition of "telecommunications service" set forth in 47 USC §153 (46).

**(2) Nondiscrimination.**

(a) No LEC shall represent, state, or imply that the sale, lease or use of any product or service provided by the LEC or any affiliate, agent or representative is conditioned upon the purchase, lease, use or continuation of any other product or service from such LEC or affiliate, agent or representative of such LEC if:

(i) such LEC or its affiliate, agent or representative does not in fact impose such condition; or

(ii) such LEC or its affiliate, agent or representative is prohibited by applicable law, rule, regulation, order or tariff from imposing such condition.

(b) Nothing herein shall preclude a LEC from bundling telecommunications services with other services as permitted by applicable law.

**(3) Employee Conduct.**

(a) LECs are prohibited from disparaging or degrading a competitor or its services or employees and must implement training, practices, and policies to comply with this requirement. In addition, no LEC employee, representative or agent while processing an order for the installation or while engaged in the actual installation, repair or restoration of service or equipment on behalf of another LEC shall either directly or indirectly:

(i) represent to any customer that such repair or restoration of service would have occurred sooner if the end-user had obtained service from the LEC of which such individual is an employee, representative or agent; or

(ii) promote the service of the LEC of which such individual is an employee, representative or agent to the customer.

**(4) Marketing.**

(a) No LEC shall make or disseminate or cause to be made or disseminated before the public by means of any media or advertising device or by public outcry or proclamation or any other manner or means any statement concerning its provision of any telecommunications service, or concerning any circumstances or matter of fact connected with the proposed performance or disposition thereof which is untrue or fraudulent and which is known or which by the exercise of ordinary care should be known to be untrue

or fraudulent.

(b) LECs shall comply with all applicable state and federal laws, rules and regulations concerning end user customer privacy.

(c) Consistent with the Federal Trade Commission (FTC) "Statement on Deceptive Advertising," LECs shall comply with the following requirements in marketing their telecommunications services:

(i) When an advertisement makes claims that are not directly false but might be misleading in the absence of qualifying or limiting information, the LEC is responsible for ensuring that the advertisement disclosures such qualifying or limiting information and that such disclosures are conspicuous;

(ii) A LEC must ensure that claims in an advertisement related to price must be clearly and conspicuously disclosed, including any monthly fees, minimum per-call charges, or any other information that significantly affects the total charge for the service, calling plan, or call; and

(iii) A LEC must clearly and conspicuously disclose in an advertisement any significant conditions or limitations on the availability of the advertised price.

(d) A LEC shall not misrepresent itself or any other affiliate in a manner that is misleading to an end user customer relative to the services it provides.

(e) A LEC shall not knowingly make unfair or inaccurate comparisons of services offered by another LEC. In making a comparison of the LEC's prices to the prices offered by a competitor, the LEC is making an implied representation that such prices are current and the LEC must have a reasonable basis for this representation.

(5) Transfer of Service.

(a) Subject to all applicable rules, regulations, and orders, no LEC shall:

(i) prevent an end user customer from changing from one LEC to another LEC in an efficient and reasonable manner;

(ii) interfere with an end user customer's selection of another local service provider; or

(iii) cause a change of an end user customer's local service provider without that customer's consent.

(6) Information Sharing and Disclosure.

(a) Each LEC has a duty to protect the confidentiality of proprietary information of, and relating to, any other LEC.

(b) Any LEC that receives or obtains proprietary information from another LEC for the purposes of providing any telecommunications service shall use such information only for such purpose, and shall not use such information for its own marketing efforts.

(7) Operational Requirements.

(a) LECs shall maintain and have on file with this Commission customer service contact information and a company contact escalation list. This information shall be filed on an annual basis, except that LECs shall file any changes to this information on a quarterly basis. The date for the annual filing shall be March 31st of each year. LECs shall make this information available to other LECs.

(b) When an end user customer has switched local service providers, the content of the original provider's final bill may not contain any information that can reasonably be construed as an attempt to target the customer, and ultimately dissuade the customer from moving to their new provider.

(c) LECs that receive "misdirected calls" from former end user customers (e.g., customers

who are trying to reach their current local service provider, but have in error reached their previous provider) must either transfer the customer to the current serving LEC or provide a contact number for that carrier.

(8) Winbacks.

(a) LECs shall observe a seven-day “waiting” period before attempting to win back customers from other LECs.

(b) This “waiting” period begins on the date of completion for the disconnect order that stops billing the end user as a retail customer of the original LEC and continues for seven (7) calendar days.

(c) During this “waiting” period, the original LEC must not contact the customer in an effort to win the customer back.

(d) The “waiting” period does not apply when the LEC receives inbound calls from end user customers who have either switched, are in the process of switching, or are considering, switching their local service provider.

(9) Preferred Local Carrier Freeze. LECs shall not provide or offer a preferred local carrier freeze.

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Alabama Public Service Commission  
Telephone Service Quality Reporting  
Narrative

**General**

1. Focus:
  - a. The service quality monitoring program, like the Alabama Telecommunications Regulatory Plan it supports, recognizes that competition is evolving in the local exchange market. Business services experience the highest degree of competitive activity and the staff anticipates that market forces are sufficient to ensure high quality business telephone service. Residential service is less competitive than the business market. Therefore, the staff will, for the most part, focus its time and resources on monitoring telephone service quality in the residential telecommunications market.
  - b. Furthermore, the staff recognizes that smaller LECs do not possess the resources to provide the data required under this program as frequently as do larger LECs. Consequently, LECs with less than 100K access lines, though subject to the same level of detail as those with 100K or more access lines, will have a somewhat less stringent reporting requirement.
2. First Year, Pilot Program: Staff and company representatives recognize that statistical measures, which are dissimilar to those used previously for service quality measurements, are extremely difficult to establish without a solid historical record. Therefore, all parties agree that data will be collected and reported for one-year, at which time, staff and utility personnel who participated in this workshop will reconvene to modify the performance measures as necessary to ensure that statistical measures are both relevant and effective. Staff will report to the Commission the results of the service quality performance measures during the pilot program. However, the service quality penalty provisions of the Alabama Telecommunications Regulatory Plan will not be applicable until permanent service quality performance measures are established following the first anniversary of the Plan.
3. Broadband Infrastructure Deployment Status/Plans: Facilities-based LECs will report, semi-annually by ILEC wire center, the exiting percentage of subscriber lines for which broadband service is being provided, the percentage of subscriber lines that are capable of broadband service (meet distance criteria to end office or RTU) within a 30-day period following a customer request for broadband access, and the estimated percentage of subscriber lines that will be broadband capable by the end of the succeeding 6-month report period.

Alabama Public Service Commission  
Telephone Service Quality Reporting  
Narrative

4. Commission Review: Staff anticipates that competition for residential customers in Tier 1 and Tier 2 wire centers will eventually increase to the point that market forces will be sufficient to regulate telephone service quality. Consequently, any subsequent Commission review of the overall regulatory plan should also include a review of the wire centers for which this service quality monitoring will be remain applicable.

**Access Line Activity Report**

1. Applicability: Applicable only to ILECs and CLECs who provide service via their own switch (excludes resale and service provided exclusively by UNE-P).
2. Purpose:
  - a. Identifies wire center and wire center location
  - b. Identifies basic service business and residential line growth
3. Proprietary data: Proprietary.
4. Reporting Frequency: Monthly for previous calendar month's activity.
5. Due: No later than the last work day of the month (e.g., data for October due NLT than the last work day in November).
6. Comments: CLECs will identify the ILEC exchange(s) (e.g., Birmingham exchange, Mobile exchange, etc.) associated with customers served by their switches. For switches serving customers multiple ILEC exchanges, CLECs will separate and report by ILEC exchange.
7. Applicable performance measures: N/A

Alabama Public Service Commission  
Telephone Service Quality Reporting  
Narrative

**Residential Installations Report**

1. Applicability: Applicable only to ILECs and CLECs who provide service via their own switch (excludes resale and service provided exclusively by UNE-P).
2. Purpose: Identifies response time for residential installations.
3. Proprietary data: Proprietary.
4. Reporting Frequency:
  - a. Monthly for companies with 100K or > total access lines.
  - b. Quarterly (but separated into monthly results) for companies with < 100K total access lines.
5. Due: No later than the last work day of the month following the end of the applicable report period (e.g., for companies reporting monthly, data for October due NLT the last work day in November; for companies reporting quarterly, data for JAN-MAR due NLT the last work day in April).
6. Comments: Working days only (excludes weekends and holidays).
7. Applicable performance measures: Using 12-month rolling average, ninety percent (90%) or greater of installations completed within 5 working days (120 working hours) after customer request for service is received.

**Held Applications Report**

1. Applicability: Applicable only to ILECs and CLECs having ETC status and who provide service via their own switch (excludes resale and service provided exclusively by UNE-P).
2. Purpose: Identifies customers who have requested and are awaiting basic service or relocation of existing basic service.
3. Proprietary data: Proprietary.

Alabama Public Service Commission  
Telephone Service Quality Reporting  
Narrative

4. Reporting Frequency: Monthly.
5. Due: No later than the last work day of the month (e.g., data for October due NLT the last work day in November).
6. Comments:
7. Applicable performance measures: N/A

**Troubles Report**

1. Applicability: Applicable only to ILECs and CLECs who provide service via their own switch (excludes resale and service provided exclusively by UNE-P).
2. Purpose: On a wire center basis,
  - a. Identifies total residential and business network troubles.
  - b. Identifies out-of-service troubles.
  - c. Identifies repeat troubles.
3. Proprietary data: Proprietary.
4. Reporting Frequency: Monthly.
5. Due: No later than the last work day of the month (e.g., data for October due NLT the last work day in November).
6. Comments:
  - a. "Total Trouble Reports" consists of ALL customer reported, network related troubles beginning with the central office through the customer NID (excludes inside wiring at customer's premises).
  - b. "Repeat Troubles" are identified as a customer reported trouble for the same line that a previous customer reported trouble was received within the previous 30-day period.
  - c. "Average Access Lines" consists of total residential and business access lines for the beginning of the report period plus the total residential and business access lines for the end of the report period (Access Lines Activity Report Column J + Column K) divided by two.

Alabama Public Service Commission  
Telephone Service Quality Reporting  
Narrative

- d. "Out-of-Service Troubles" consists of all customer reports that an out-of-service condition exists for their line or lines. A Customer trouble report that multiple lines are out-of-service that for that customer, at the same location and at the same time, constitutes a single out-of-service report.
  - e. Repeat Trouble and Out-of-Service trouble rates are as a percentage of Total Trouble Reports.
  - f. NOTE: The Commission will monitor trouble reports, repeat troubles, and out-of-service troubles on a monthly basis but for purposes of applying performance measures, the data will be compiled into 12-month rolling averages to reduce seasonal spikes. For example, the total troubles for the most recent month will be added to those for the previous 11 months and divided by the cumulative average access lines reported for the same period. Force Majeur may be requested on a case-by-case basis for wire centers affected by severe anomalies such as hurricanes, tornados, floods, or unusually severe ice/snow storms. Heavy periods of precipitation are not considered anomalies.
7. Applicable performance measures:
- a. Trouble report rate
    - i. Wire centers with 10K or more lines
      - 1. Exception Threshold (trigger when monthly wire center trouble report rates by disposition are required): Twelve month trouble report rate of 3.75% or higher or when any monthly trouble rate exceeds 7.5%.
      - 2. Minimum acceptable performance: Twelve month trouble report rate of 5.00% or less.
    - ii. Wire centers with 1000 or more lines but less than 10K lines
      - 1. Exception Threshold (trigger when monthly wire center trouble report rates by disposition are required): Twelve month trouble report rate of 5.25% or higher or when any monthly trouble rate exceeds 10.5%.
      - 2. Minimum acceptable performance: Twelve month trouble report rate of 7.00% or less.
    - iii. Wire centers with less than 1000 lines
      - 1. Exception Threshold (trigger when monthly wire center trouble report rates by disposition are required): Twelve month trouble report rate of 6.75% or higher or when any monthly trouble rate exceeds 13.5%.
      - 2. Minimum acceptable performance: Twelve month trouble report rate of 9.0% or less.



Alabama Public Service Commission  
Telephone Service Quality Reporting  
Narrative

- b. Repeated Trouble report rate
  - i. Wire centers with 10K or more lines
    - 1. Exception Threshold (trigger when monthly wire center trouble report rates by disposition are required): Twelve month repeated trouble report rate of 6.0% or higher or when any monthly repeated trouble rate exceeds 12.0%.
    - 2. Minimum acceptable performance: Twelve month repeated trouble report rate of 8.0% or less.
  - ii. Wire centers with 1000 or more lines but less than 10K lines
    - 1. Exception Threshold (trigger when monthly wire center trouble report rates by disposition are required): Twelve month repeated trouble report rate of 9.0% or higher or when any monthly repeated trouble rate exceeds 18.0%.
    - 2. Minimum acceptable performance: Twelve month repeated trouble report rate of 12.0% or less.
  - iii. Wire centers with less than 1000 lines
    - 1. Exception Threshold (trigger when monthly wire center trouble report rates by disposition are required): Twelve month repeated trouble report rate of 12.0% or higher or when any monthly repeated trouble rate exceeds 24.0%. Minimum 5 repeat troubles must be recorded before the monthly exception threshold of 24% applies.
    - 2. Minimum acceptable performance: Twelve month repeated trouble report rate of 16.00% or less.
- c. Out-of-Service (OOS) report rate: N/A

Alabama Public Service Commission  
Telephone Service Quality Reporting  
Narrative

**Troubles (Exceptions) Report**

1. Applicability:
  - a. Applicable only to ILECs and CLECs that provide service via their own switch (excludes resale and service provided exclusively by UNE-P).
  - b. **ILECs/CLECs with less than 100K total access lines will maintain the data requirements in a form readily accessible and available for Commission staff review (i.e., that allows us to build the exceptions report, in a reasonable period of time from records maintained by the company on its premises within the state of Alabama).**
2. Purpose: Submitted when 12-month exception and/or monthly threshold identified for the Troubles Report is exceeded. Separates troubles into disposition.
3. Proprietary data: Proprietary.
4. Reporting Frequency: Monthly.
5. Due: No later than the last work day of the month (e.g., data for October due NLT the last work day in November).

**Residential Repair Response Report**

1. Applicability: Applicable only to ILECs and CLECs who provide service via their own switch (excludes resale and service provided exclusively by UNE-P).
2. Purpose: Identifies repair response for out-of-service troubles and non out-of-service trouble.
3. Proprietary data: Proprietary.
4. Reporting Frequency: Monthly
5. Due: No later than the last work day of the month (e.g., data for October due NLT the last work day in November).

Alabama Public Service Commission  
Telephone Service Quality Reporting  
Narrative

6. Comments:
  - a. The 36-hour and 72-hour periods include business and non-business hours (i.e., weekends and holidays).
  - b. The time required for clearing the OOS or non-OOS service begins when the report is initiated by the customer, not when it is received by dispatch or repair personnel and ends when repair personnel report that service is restored and/or the trouble is cleared.
7. Applicable performance measures:
  - a. Using 12-month rolling average, 80% or greater OOS troubles cleared in 36 hours or less.
  - b. Using 12-month rolling average, 80% or greater non-OOS troubles cleared in 72 hours or less.

**ANS Time Report**

1. Applicability: Applicable to all ILECs and CLECs with 100K or > total access lines.
2. Purpose: Indicates distribution of live attendant answer times for calls by residential customers to the Business and Repair Office.
3. Proprietary data: N/A
4. Reporting Frequency: Monthly.
5. Due: No later than the last work day of the month (e.g., data for October due NLT the last work day in November).
6. Comments: N/A
7. Applicable performance measures: N/A.

Alabama Public Service Commission  
Telephone Service Quality Reporting  
Narrative

**Customer Satisfaction Surveys**

To be discussed.

BUSINESS				RESIDENCE		
Lines in Service Beginning Report Period	Lines in Service End of Report Period	Change Additions or (Losses)	Lines in Service Beginning Report Period	Lines in Service End of Report Period	Change Additions or (Losses)	
Wire Center Name	Location (City/Town)					

RETAIL RESIDENTIAL ONLY			
Total Installation Orders for Basic Service	Total Basic Service Installations Completed WI 5 working days	Number of Orders Wherein Customer Requests Installation Date > 5 working days after order submission	Percent Installed WI 5 working days
Wire Center			

**RESIDENTIAL ORDERS > 30 DAYS OLD**

Wire Center	Customer Name	Customer Address	Date Application Received	Reason	Estimated Date to Complete
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REPORT RATES				OUT-OF-SERVICE		
Total Trouble Reports Received During Period	Repeat Trouble Reports Received During Period	Average Access Lines for Report Period	Trouble Report Rate	Repeated Trouble Report Rate	Total Out-of-Service Troubles	Percent Troubles Out-of-Service
Wire Center						



Submitted when any wire center exceeds the 12-month and/or monthly thresholds identified for the Troubles Report

REPORT RATES			OUT-OF-SERVICE			BY DISPOSITION											
Total Trouble Reports Received	Repeat Trouble Reports Received	Average Access Lines for Report Period	Trouble Report Rate	Repeated Trouble Report Rate	Total Out-of-Service Troubles	Percent Troubles Out-of-Service	Percent COE	Percent Cable	Percent Cut Cable	Percent Carrier or other OSP Electronic Equipment	Percent Terminal or Pedastal related	Percent Drop	Percent Customer NID	Percent Customer Wiring	Percent Trouble Not Found	Percent Tested OK Found OK	Percent Other
Wire Center	During Period	During Period	Report Period	Report Rate	Report Rate	Troubles	Out-of-Service	Cable	Cable	Equipment	Pedastal related	Drop	NID	Wiring	Found	Found OK	Other

RESIDENTIAL RETAIL			
Total Out-of-Service Troubles	Percent Service Restored in < 36 Hrs	Total NON Out-of-Service Troubles	Percent Cleared < 72 Hrs
Wire Center			

ANS TIME DISTRIBUTION  
RESIDENTIAL CUSTOMERS ONLY

BUSINESS OFFICE

Live Attendant ANS TIME	Total Calls ANS By Live Attendant
0 to 30 SEC	
31 to 60 SEC	
61 to 90 SEC	
> 90 SEC	

REPAIR OFFICE

Live Attendant ANS TIME	Total Calls ANS By Live Attendant
0 to 30 SEC	
31 to 60 SEC	
61 to 90 SEC	
> 90 SEC	

**DOCKET 28590**

**ATTACHMENT E**

**ATRP MEDIATION RULES AND PROCEDURES**

- (A) Petitions for Mediation shall be filed with the Secretary of the Commission and shall simultaneously be served upon all the parties to the dispute for which mediation is being sought. At a minimum, the request for mediation shall include:
- (1) The names, addresses, telephone numbers, and facsimile numbers of the parties to the negotiations and their authorized representatives.
  - (2) A statement of the relevant background information regarding the dispute for which the mediation is sought.
  - (3) A brief position statement on each unresolved issue.
- (B) The parties to the dispute for which mediation is sought who do not join in the petition for mediation shall file replies to the petitioning party's request for mediation within ten (10) days of the date of service of the request for mediation.
- (C) Following the receipt of a request for mediation which complies with the above requirements and any replies thereto, a Commission representative will be appointed to lead the mediation of the unresolved issues between the parties.
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- (D) Mediation is a voluntary, non-binding, alternative dispute resolution process to which the parties must agree to submit to. The mediator appointed shall be authorized to offer settlement proposals, but cannot impose a settlement on the parties. The mediator's primary role is to help the parties achieve their own resolution. Any party may request that the mediation be terminated at any time.
  - (E) The mediator will schedule all meetings in consultation with the parties. Only the mediator, Commission staff members selected by the mediator or the Commission to provide technical support, and the parties to the negotiations may attend meetings unless all parties mutually consent otherwise. In order to facilitate settlement, the mediator and Commission technical support staff may meet with the parties individually.
  - (F) The subjects of mediation are limited to issues that are within the jurisdiction of the Alabama Public Service Commission.
  - (G) All discussions held during the course of the mediation are privileged and may not be used by any party in the course of any litigation or arbitration should litigation or arbitration become necessary.
  - (H) The mediator may request that supplemental information be filed. The mediator cannot, however, compel discovery among the parties. All discussions and information exchanged during the mediation process will be confidential between the parties and the Commission unless the parties mutually consent otherwise. The mediator's statements as to law or policy
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are not binding on the Commission and the positions taken by the parties during mediation will not prejudice their position in any later proceedings.

- (I) The parties to the mediation must be represented by participants who have the authority to enter into a settlement concerning the matters at issue.
  - (J) The mediator may terminate the mediation if it appears in his or her judgment that the likelihood of agreement among the parties is remote or if a party is not participating in good faith, or for other good cause. The parties shall be notified in writing of such a decision by the mediator.
  - (K) The parties preserve their legal position before, during, and after the conclusion of the mediation.
  - (L) While it is contemplated that mediation will provide an opportunity to resolve differences between parties, mediation does not limit the parties' legal right to seek remedy through arbitration or complaints before the Commission or through an appropriate Court.
  - (M) Mediation does not limit or preclude the use of other dispute resolution processes contained in any contract or agreement between the parties.
-